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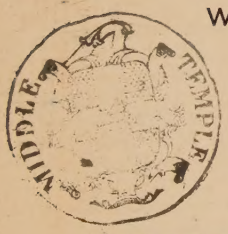

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THE

STATUTES IN FORCE

RELATING TO

THE POOR.

BIRTHS AND DEATHS REGISTRATION ACT, 1837.

7 WILL. IV. & 1 VICT. CHAP. 22.

An Act to explain and amend Two Acts passed in the last Session of Parliament, for Marriages, and for registering Births, Deaths, and Marriages in England.

[30th June, 1837.]

[Preamble recites 6 & 7 Will. 4, c. 85 (An Act for Marriages in England; 6 & 7 Will. 4, c. 86 (An Act for registering Births, Deaths, and Marriages in England).]

Meaning of notice of marriage to registrar and registrar's certificate of notice in recited Acts.

[I.] Where in the said Act for marriages in England provision is made for giving notice of marriage to any registrar, and where in the last-recited Act or any schedule thereunto annexed mention is made of any such notice, or of the registrar's certificate of any such notice, the same shall be construed respectively to mean the notice to be given to the superintendent registrar, and the certificate thereof to be issued by the superintendent registrar, according to the provisions for that purpose contained in the last-recited Act.

[Sect. 2. Repealed by 37 & 38 Vict. c. 88, s. 54.]

Superintendent registrar unduly issuing licences, or solemnizing marriages, guilty of felony.

III. Every superintendent registrar who shall knowingly and wilfully issue any licence for marriage after the expiration of three calendar months after the notice shall have been entered by the superintendent registrar as provided by the said Act for marriages, or who shall knowingly and wilfully solemnize or permit to be solemnized in his office any marriage in the last-recited Act declared to be null and void, shall be guilty of felony.

[Sect. 4. Repealed by 37 & 38 Vict. c. 88, s. 54.]

4

Sect. 5.

Copy of registrar-general's declaration of frivolous *caveat* to be evidence.

V. For the purpose of enabling any person to recover costs and damages in any action, as provided by the said Act for marriages, from any person who shall have entered a *caveat* on frivolous grounds with the superintendent registrar, a copy of the declaration of the registrar-general purporting to be sealed with the seal of the general register office shall be evidence that the registrar-general has declared such *caveat* to have been entered on frivolous grounds, and that they ought not to obstruct the grant of the licence or issue of the certificate, as the case may be: and such declaration shall have the effect of the declaration required in such case by the said Act for marriages.

[Sect. 6. Repealed by 37 & 38 Vict. c. 88, s. 54; Sect. 7. Repealed by the S. L. R. Act, 1874.]

Place of birth or death may be inserted in the register.

VIII. It shall be lawful for the registrar-general, if he shall think fit, to direct that the place of birth or death of any person whose birth or death shall be registered under the said Act for registering births, deaths, and marriages, shall be added to the entry in such manner as the registrar-general shall direct; and such addition, when so made, shall be taken to all intents to be part of the entry in the register.

Places within but not part of unions, &c. having guardians under 4 & 5 Will. 4, c. 76, may be included in registrars' districts, &c.

IX. It shall be lawful for the registrar-general, with the consent of the Poor Law Commissioners, to direct that any place lying wholly within but not being part of any union, parish, or place for which a board of guardians shall have been established under the provisions of [the Poor Law Amendment Act, 1834,] shall be part of any one or more registrars' districts within such union, parish, or place, and within the superintendence of the superintendent registrar thereof, or, if not lying wholly within any one such union, parish, or place as last aforesaid, then to be for those purposes annexed to such union, parish, or place as last aforesaid, as the registrar-general, with the consent of the Poor Law Commissioners, shall direct.

Registrar-general may unite unions, &c. or districts.

X. It shall be lawful for the registrar-general, if he shall see fit, with the approval of one of Her Majesty's principal Secretaries of State, to unite any two or more unions, parishes, or places for which a board of guardians shall have been established under the Act last aforesaid, or any two or more superintendent registrars' districts into one superintendent registrar's district; and in every such case of union the registrar-general shall declare by which board of guardians the superintendent registrar shall thenceforward be appointed; and the superintendent registrar of the union, parish, or place

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Sect. 10. Note.

This section is now extended to *all* unions by the Births and Deaths Registration Act, 1874 (37 & 38 Vict. c. 88), s. 22.

Sect. 10.

for which such board is established, shall from the time of such union be the sole superintendent registrar of such united district; and every provision of the said Acts for marriages, and for registering births, deaths, and marriages, relating to superintendent registrars, and to the districts under their superintendence, and to boards of guardians within such districts shall apply to every such superintendent registrar, and to every such district, and to the board of guardians so selected and declared; and all register boxes, keys, books, documents, and papers in the possession of any superintendent registrar who shall cease to be such under the provisions of this Act, shall be delivered to the superintendent registrar of the united district, and may be recovered in the manner provided by the last-recited Acts, and shall be removed from the office of the person ceasing to be superintendent registrar to the office of the superintendent registrar of the united district; and the office of every superintendent registrar ceasing to be such under the provisions of this Act shall from the time of such union as last aforesaid cease to be a register office within the meaning of the said last-recited Acts; and it shall be lawful for the Treasury to cause to be repaid out of the consolidated fund such sum as the board of guardians shall have legally paid or for which they may have lawfully become liable as such guardians, for the sole purpose of providing a register office; and in every case in which such union as last aforesaid shall be intended to take place, the registrar-general shall give public notice thereof, and of the time when the same shall take effect, by advertisement in the *London Gazette* and in some newspaper circulating within the county; and every such union shall take effect from the day named in such advertisement in the *London Gazette*.

Registrar-general may divide unions, &c. or districts.

XI. It shall be lawful for the registrar-general, if he shall see fit, with the approval of one of Her Majesty's principal Secretaries of State, to divide any union, parish, or place, or any superintendent registrar's district, into two or more superintendent registrars' districts, and notice of every such division shall be published in the *London Gazette;* and in every such case the guardians shall appoint a sufficient number of persons, with such qualifications as the registrar-general may by any general rule declare to be necessary, to be superintendent registrars of the new districts, and shall also appoint the district for which the clerk to the guardians or other person who may have been theretofore appointed as superintendent registrar of the whole union, parish, or place, shall continue to be superintendent registrar; and every provision of the said recited Acts for marriages, and for registering births, deaths,

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Sect. 11. Note.

This section is now extended to *all* unions by the Births and Deaths Registration Act, 1874 (37 & 38 Vict. c. 88), s. 22.

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and marriages, relating to superintendent registrars, and the districts under their superintendence, shall apply to every superintendent registrar so appointed, and to the district for which he shall be so appointed.

Superintendent registrar's office to be deemed within district, though not situate therein.

XII. The superintendent registrar's office shall be taken, for the purposes of the said Act for marriages, and for registering births, deaths, and marriages, and of this Act, to be within the district of which it is the register office, although not locally situated therein.

[Sect. 13. *If guardians neglect to form registrars' districts Poor Law Commissioners shall form them and appoint registrars thereto:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

If guardians neglect to appoint registrars or superintendent registrars, the registrar-general shall appoint them.

XIV. In every case in which the clerk to any such board of guardians shall not think fit, or shall be disqualified to accept the office of superintendent registrar, and the guardians shall refuse or neglect during fourteen days after being required so to do by the registrar-general to appoint a superintendent registrar properly qualified, and in every case of vacancy of the office of registrar or superintendent registrar in any such union, parish, or place in which the guardians shall refuse or neglect during fourteen days after such vacancy to appoint a registrar or superintendent registrar properly qualified, the appointment shall lapse to the registrar-general.

Registrar-general may appoint an assistant to act for him in certain cases.

XV. The registrar-general shall have power, subject to the approval of the Treasury, to appoint by writing under his hand a fit person to act as his assistant in the case of the illness of the registrar-general; and every such assistant, while so acting, shall have all the powers and duties and be subject to all the provisions and penalties declared by the said Acts for marriages, and for registering births, deaths, and marriages, in England, and by this Act, or any of them; except that such assistant shall not have power to make or declare any general rule, or to rescind or alter any order, regulation, or approval signified and made by the registrar-general in writing under his hand, or to dismiss any person from any office holden during the pleasure of the registrar-general.

[Sect. 16. Repealed by 37 & 38 Vict. c. 88, s. 54.]

If more than one clerk to a board of guardians which

XVII. Whenever there are two or more clerks to the guardians of any union, parish, or place, established under the provisions of the said Act for amending the laws relating

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By the Births and Deaths Registration Act, 1836 (6 & 7 Will. 4, c. 86), s. 7, the clerk to the guardians was declared entitled to the office of superintendent registrar.

to the poor, one only of whom shall possess such qualifications as the registrar-general by any general rule hath declared or shall declare to be necessary, or one only of whom shall think fit to accept the office of superintendent registrar of such union, parish, or place, such one shall be the superintendent registrar of such union, parish, or place; and if two or more of such clerks shall possess such qualifications as aforesaid, and be willing to accept such office, then such guardians shall elect and choose one of such clerks (possessing such qualifications as aforesaid) to be the superintendent registrar of such union, parish, or place; and no other person shall be or be elected or appointed to be superintendent registrar of any such union, parish, or place, unless all the clerks to the board of guardians (possessing such qualifications as aforesaid) shall not think fit to accept such office.

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of them to be superintendent registrar.

XVIII. Every registrar of births and deaths and every registrar of marriages appointed under the provisions of the said Acts or either of them shall be freed and exempted from being returned and from serving on any jury or inquest, and from every parochial and corporate office whatever.

Exemption of registrars from serving on juries and from parochial and corporate offices.

XIX. For better enabling fit register offices to be provided, it shall be lawful for any such board of guardians to borrow money for that purpose, and to charge the amount of the sum borrowed on the future poor rates of the parish, union, or place of which they are the guardians, in the manner provided by the said Act for amending the laws relating to the poor with respect to monies borrowed for building workhouses for the relief of the poor; save only that the yearly instalments by which any money borrowed as aforesaid shall be repaid, shall not be less than one-twentieth of the sum borrowed, with interest on the same, and need not be more in any one year.

Guardians may borrow money for providing register offices.

XX. In any case in which any such board of guardians shall neglect or refuse to provide and uphold a register office according to the provisions of the said Act for registering births, deaths, and marriages, it shall be lawful for the Commissioners of the Treasury, on the application of the registrar-general, to give directions for providing and upholding the same, and to expend a sum not exceeding three hundred pounds in providing the same, and also all sums needful for the repair and maintenance thereof from time to time, in case the guardians shall continue to refuse or neglect to repair and uphold the same, and it shall be lawful for the said

If guardians neglect to provide a register office, Treasury may direct it to be provided, &c.

This section is to a great extent superseded and is partly replaced by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

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commissioners to make an order from time to time on such guardians for the repayment, out of the monies coming to their hands as such guardians, of all sums so to be from time to time expended, and such order shall be binding upon the said guardians; and the guardians shall also be bound to pay out of the monies coming to their hands as such guardians all costs and expenses incurred by or under the direction of the said commissioners in making and enforcing such order.

[Sect. 21. Repealed by 37 & 38 Vict. c. 88, s. 54.]

Registrar-general to fix the number of registrars of marriage.

XXII. The registrar-general shall be authorized to fix from time to time the number of registrars of marriage to be appointed by any superintendent registrar; and no superintendent registrar shall have power to appoint more than the number so fixed for him to appoint.

Provision for use of the Welsh tongue in marriages in Wales.

XXIII. The registrar-general, under the direction of one of Her Majesty's principal Secretaries of State, shall take order that the solemn declaration and form of words provided to be used in the case of marriages under the said Act for marriages be truly and exactly translated into the Welsh tongue, and shall cause the same so translated to be furnished to every registrar of marriages throughout Wales, and in all places where the Welsh tongue is commonly used; and it shall be lawful to use the declaration and form of words so translated, and published by authority, in all places where the Welsh tongue is commonly used or preferred, in such manner and form and to the same intents and purposes as by the said Act is prescribed in the English tongue.

[Sect. 24. Repealed by the S. L. R. Act, 1874; Sect. 25. Repealed by 37 & 38 Vict. c. 88, s. 54.]

Certified copies of register books under recited Acts, &c. shall be made up quarterly.

XXVI. The certified copies of the entries of births, deaths, and marriages required by the said Acts for marriages, and for registering births, deaths, and marriages, . . . to be made and delivered to the superintendent registrar, and also the certificates to be made and delivered to the superintendent registrar that there has been no birth, death, or marriage registered since the delivery of the last certificate, shall in every case be made up and refer respectively to the last days of March, June, September, and December then next preceding, and not to the time of the making or delivery of such certified copy or certificate when made on any subsequent day.

XXVII. And whereas it is required by the said Act for registering births, deaths, and marriages, that every rector, vicar, and curate shall register in duplicate the particulars of

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every marriage solemnized by him, one of which registers he is also required to deliver when filled to the superintendent registrar of the district in which such church or chapel may be situated, and also four times in every year to deliver to the said superintendent registrar a true copy, certified by him under his hand, of all the entries of marriage in the register book kept by him since the last certificate: Be it enacted, that the said superintendent registrar shall pay or cause to be paid to the said rector, vicar, or curate the sum of sixpence for every entry contained in such certified copy; which sum shall be reimbursed to the said superintendent registrar by the guardians or overseers of the union, parish, or place for which he shall be appointed superintendent registrar as aforesaid, in like manner as by the said Act is provided for the payment of the registrar on production of his accounts to the superintendent registrar.

Clergyman to be paid for registering marriages in duplicate.

XXVIII. Every person who under the provisions of the said Acts for marriages, and for registering births, deaths, and marriages, or either of them, as amended by this Act, is required to make and deliver to any superintendent registrar a certified copy of the entries of any births, deaths, or marriages registered by him, or the certificate required by the said Acts as amended by this Act that there have been no entries since the last certificate, and who, after being duly required to deliver such certified copy or such certificate as aforesaid, shall refuse or during one calendar month neglect so to do, shall be liable for every such offence to forfeit a sum not exceeding ten pounds, to be recovered as other penalties for offences against the said Acts are made recoverable: Provided always, that in such case a moiety of the penalty shall not go to the informer, but the whole shall go to the registrar-general, or such other person as the Treasury shall appoint, for the use of Her Majesty.

Penalty for neglecting to send certified copies of register books, &c.

XXIX. In every case in which any rector, vicar, or curate is required by either of the said Acts for marriages, and for registering births, deaths, and marriages, or by this Act, to give or deliver any notice, certificate, or certified copy to any superintendent registrar, it shall be sufficient for such rector, vicar, or curate to give or deliver the same to some registrar under the superintendence of such superintendent registrar; and every registrar on receiving any such notice, certificate, or certified copy shall give or deliver the same to the superintendent registrar; and each superintendent registrar shall direct the registrars of births and deaths under his superintendence quarterly, or oftener if he shall think fit or shall be so ordered to do by the registrar-general, to collect the notices, certificates, and certified copies from every rector, vicar, and curate within his district.

Certificates, &c. required to be given to any superintendent registrar may be given to any registrar, who is to forward the same to superintendent registrar, &c.

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Power to administer oaths.

XXX. Every person, before whom by the said Acts or either of them, an oath is directed to be taken, is hereby authorized to administer the same.

[Sect. 31. Repealed by 37 & 38 Vict. c. 88, s. 54; Sect. 32. Repealed by the S. L. R. Act, 1874.]

Banns may be published in chapels where marriages may be solemnized.

XXXIII. The banns of marriage of any persons may be published in any chapel licensed by the bishop, according to the provisions of the said Act for marriages, for the solemnization of marriages, in which those persons might lawfully be married; and instead of the notice required by the said Act the words "Banns may be published and Marriages may be solemnized in this Chapel" shall be placed in some conspicuous part in the interior of every such chapel.

Marriages may be in licensed chapels, though only one of the parties is resident in the district.

Publication of banns where the parties reside in different districts.

XXXIV. And whereas doubts may arise whether under the said recited Acts it is lawful for the bishop to license chapels for marriages between parties, one only of whom resides within the district specified in such licence: Be it therefore enacted and declared, that all such licences shall be construed to extend to and authorize marriages in such chapels between parties, one or both of whom is or are resident within the said district: Provided always, that where the parties to any marriage intended to be solemnized after publication of banns shall reside within different ecclesiastical districts, the banns for such marriage shall be published as well in the church or chapel wherein such marriage is intended to be solemnized, as in the chapel licensed under the provisions of the said recited Act for the other district within which one of the parties is resident, and if there be no such chapel then in the church or chapel in which the banns of such last-mentioned party might be legally published if the said recited Act had not been passed.

Any building licensed, &c. as a Roman Catholic chapel may be registered for celebration of marriages as a separate building.

XXXV. [*Recital.*] Any building which shall have been licensed and used during one year next before registration for public religious worship as a Roman Catholic chapel exclusively shall be taken to be a separate building for the purpose of being registered for the celebration of marriages, notwithstanding the same shall be under the same roof with any other building, or shall form a part only of a building.

Notice to superintendent registrar, and issue of certificate by him, shall be used and stand instead

XXXVI. [*Recital of 6 & 7 Will. 4, c. 85, s. 1.*] The giving of notice to the superintendent registrar, and the issue of the superintendent registrar's certificate, as in the said Act and by this Act provided, shall be used and stand instead of the publication of banns to all intents and purposes where no such publication shall have taken place; and every parson, vicar, minister, or curate in England shall solemnize marriage after

such notice and certificate as aforesaid in like manner as after due publication of banns: Provided always, that the church wherein any marriage according to the rites of the Church of England shall so be solemnized shall be within the district of the superintendent registrar by whom such certificate as aforesaid shall have been issued.

Sect. 36. of publication of banns.

POST OFFICE (MANAGEMENT) ACT, 1837.

7 WILL. IV. & 1 VICT. CHAP. 33.

An Act for the Management of the Post Office.

[Only so much of this Act is printed here as exempts Post Office officials from serving parochial offices.]

* * * * *

XII. . . . no postmaster-general nor any other officer of the Post Office shall be compelled to serve as a mayor or sheriff, or in any ecclesiastical or corporate or parochial or other public office or employment, or to serve on any jury or inquest, or in the militia; any law or custom to the contrary thereof notwithstanding.

Persons employed by the Post Office exempt from certain offices.

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PARISH NOTICES ACT, 1837.

7 WILL. IV. & 1 VICT. CHAP. 45.

An Act to alter the Mode of giving Notices for the holding of Vestries, of making Proclamations in Cases of Outlawry, and of giving Notices on Sundays with respect to various Matters.*

[Preamble recited 58 Geo. 3, c. 69, s. 1.]

[I.] . . . no proclamation or other public notice for a vestry meeting or any other matter shall be made or given in any

Notices not to be given in churches during divine service, &c.

* This Act is repealed as to the Isle of Man by 33 & 34 Vict. c. 51, s. 2.

The former part of this section, which repealed so much of 58 Geo. 3, c. 69, s. 1, as directed notices to be published in the parish church on Sundays, is repealed by the S. L. R. Act (No. 2), 1888.

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church or chapel during or after divine service, or at the door of any church or chapel at the conclusion of divine service.

Notices heretofore usually given during or after divine service, &c. to be affixed to the church doors.

II. All proclamations or notices, which under or by virtue of any law or statute or by custom or otherwise have been heretofore made or given in churches or chapels during or after divine service, shall be reduced into writing, and copies thereof either in writing or in print, or partly in writing or partly in print, shall, previously to the commencement of divine

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Note.

By the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 1, notice of allowance of every poor rate is required to be given in the church on the next Sunday after the same shall have been allowed. Such notice must now be given in the manner directed in this section.

By the Poor Rate Assessment and Collection Act Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 4, in a parish in which there is no church or chapel of the parish, a poor rate shall be deemed to have been duly published if, within fourteen days after the making of the rate, notice thereof has been given by affixing such notice in some public and conspicuous place or situation in the parish. This enactment was passed in consequence of the decision of the court in *Reg.* v. *Dyott* (9 Q. B. D. 47; 51 L. J. M. C. 104; 30 W. R. 799; 47 J. P. 54), to the effect that where there was no church in the parish, the poor rate could not be collected.

Where a notice of allowance was affixed previous to the evening service, the court held it sufficient; they also held that it was not necessary that such notice should be signed by the churchwardens or overseers (*Burnley* v. *Methley*, 1 E. & E. 789; 28 L. J. M. C. 152; 23 L. T. 132; 5 Jur. (N. S.) 914; 7 W. R. 422).

A notice of allowance was affixed on the door of the church in which alone all rates had been published before the passing of this Act, but there were also in the same township two other churches, on the doors of which the notice was not affixed. The court held this publication to be insufficient (*Reg.* v. *Whipp*, 4 Q. B. 141; 12 L. J. M. C. 64; 7 Jur. 194; 3 G. & D. 372).

A poor rate was published in the united townships of Todmorden and Walsden by affixing a notice thereof on the principal door of the new church, the church having two doors; there was also an ancient chapel in the townships, which had fallen into decay, but parish meetings were held, and sometimes christenings and burials were performed there: there was also a school-house in Walsden, where divine service was performed on Mondays. The court held the publication good; the new church was *de facto* the church of the place, within the meaning of this Act, and affixing the notice on the principal door of that church was sufficient; it was not necessary to affix it on the doors of the chapel or school-house (*Ormerod* v. *Chadwick*, 16 M. & W. 367; 16 L. J. M. C. 143).

A parish was divided into several townships, &c., each supporting its own poor, and a rate for one of the townships, in which the parish church was situate, being published by affixing it on the door of the church, was objected to because it had not been affixed on the doors of all the churches and chapels within the other townships, &c. The court held that it was not necessary; all the statute required was that the rate should be published by affixing it on the doors of all churches and chapels within that district for which it is

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service on the several days on which such proclamations or notices have heretofore been made or given in the church or chapel of any parish or place, or at the door of any church or chapel, be affixed on or near to the doors of all the churches and chapels within such parish or place; and such notices when so affixed shall be in lieu of and as a substitution for the several proclamations and notices as heretofore given as aforesaid, and shall be good, valid, and effectual to all intents and purposes whatsoever.

Notices for holding vestries to be signed as herein directed.

III. No such notice of holding a vestry shall be affixed on the principal door of such church or chapel unless the same shall previously have been signed by a churchwarden of the church or chapel, or by the rector, vicar, or curate of such parish, or by an overseer of the poor of such parish; but every such notice so signed shall be affixed on or near to the principal door of such church or chapel.

Decrees, &c. of ecclesiastical courts not to be read during divine service, &c.

IV. No decree relating to a faculty, nor any other decree, citation, or proceeding whatsoever in any ecclesiastical court, shall be read or published in any church or chapel during or immediately after divine service.

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made (*Reg.* v. *Worcestershire JJ.*, or *Reg.* v. *Marriott*, 12 A. & E. 779; 10 L. J. M. C. 12; 4 P. & D. 440).

A notice required by 11 Geo. 4 & 1 Will. 4, c. 36, s. 3, to be published in the parish church of the parish where the defendant has his abode, was, where a defendant's residence had been in Barnard's Inn, directed by Vice-Chancellor James to be posted on the door of the chapel of Barnard's Inn, which was an extra-parochial place, as being a sufficient compliance with this section, although there was no such chapel in Barnard's Inn (*Finney* v. *Godfrey*, L. R. 9 Eq. 356).

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Note.

This section is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so far as the same relates to notices by parish councils and notices of parish meetings under that Act.

The notice summoning a vestry may be signed by the minister alone (*Reg.* v. *D'Oyly*, 12 A. & E. 139; 4 P. & D. 52; 4 Jur. 1056); or by both churchwardens (*Shaw* v. *Thompson*, 3 Ch. D., at p. 244); or by one churchwarden or one overseer (*Butt* v. *Fellowes*, 3 Curt. 680).

The form of the notice will not be critically, but reasonably, construed: it may be good although it do not name the parish, if it sufficiently appear that it applies to the parish where it was set up (*Rand* v. *Green*, 9 C. B. (N. S.) 315; 30 L. J. C. P. 80; 6 Jur. (N. S.) 303; and see *Reg.* v. *Powell*, 37 J. P. 711).

If a considerable number of parishioners desire to have a vestry meeting called, but are unable to get it called, by reason of the refusal of the minister, churchwardens, or overseers to aid them in doing so, the court will grant a *mandamus* to convene a vestry if sufficient cause be shown (*Rex* v. *Stoke Damarel*, 6 L. J. M. C. 14).

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Act not to extend to notices purely ecclesiastical.

V. Provided always, that nothing in this Act shall extend or be construed to extend to the publication of banns, nor to notice of the celebration of divine service or of sermons, nor to restrain the curate, in pursuance of the rules in the Book of Common Prayer, from declaring unto the people what holy days or fasting days are in the week following to be observed, nor to restrain the minister from proclaiming or publishing what is prescribed by the rules of the Book of Common Prayer, or enjoined by the Queen or by the ordinary of the place.

Extent of Act.

VI. All the provisions of this Act shall extend and be construed to extend to the town of Berwick-upon-Tweed, . . . and the islands of Guernsey, Jersey, Alderney, and Sark.

UNION AND PARISH PROPERTY ACT, 1837.

7 WILL. IV. & 1 VICT. CHAP. 50.

An Act to facilitate the Conveyance of Lands and Buildings for the purposes of Two Acts passed respectively in the Fifth and Sixth Years of His late Majesty King William the Fourth.* [15th July, 1837.]

WHEREAS an Act was passed in the fifth year of the reign of His late Majesty King William the Fourth intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales": And whereas another Act was passed in the sixth year of the reign of His said late Majesty, intituled "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations or Unions of Parishes in England and Wales": And whereas doubts are entertained as to whether the herein-recited Acts respectively apply to lands or buildings or other hereditaments of copyhold or customary tenure; and it is expedient that such doubts should be removed, and that the provisions of the said Acts should be extended in some respects:

4 & 5 Will. 4, c. 76;

5 & 6 Will. 4, c. 69.

Provisions of recited Acts to extend to copyhold lands, &c.

[I.] The provisions of the said herein-recited Acts apply to and comprise lands and buildings and other hereditaments of copyhold or customary tenure, as well as lands, buildings, and other hereditaments of freehold tenure.

*For "Poor Law Commissioners" throughout this Act, now read "Local Government Board" (34 & 35 Vict. c. 70).

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Note.

By the Workhouse Sites Act, 1857 (20 & 21 Vict. c. 13), s. 7, the provisions of this Act are made applicable to that Act, which extends the powers conferred by 5 & 6 Will. 4, c. 49, on ecclesiastical corporations sole of conveying property for workhouses, &c., to such corporations when insane.

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Provision for enfranchisement of copyholds.

II. Whenever any contract shall be entered into for the purposes of the said recited Acts or either of them, or of this Act, respecting any lands, buildings, or other hereditaments of copyhold or customary tenure, it shall be lawful for the Poor Law Commissioners to direct that the difference in value of such lands or buildings or other hereditaments, as of copyhold or customary tenure, and the freehold or fee simple thereof, including therein the value of any fine, heriot, or customary due, payment, or rent, or any service capable of being valued, in respect of such land or building or other hereditaments, shall be ascertained by such means as they shall think fit; and such difference in value, when so ascertained, shall be paid to or invested for the use and benefit of the lord of the manor of which such lands or buildings or other hereditaments shall be parcel, or such other person as would be entitled to the fines payable upon death or alienation of the same, or to such heriot, dues, payment, rent, or service respectively; and upon and from the making of such payment or investment such lands or buildings or other hereditaments shall thenceforth be deemed enfranchised and for ever discharged from every fine customary or copyhold, heriot, due, payment, rent suit, or service; and such lands and buildings and other hereditaments shall thenceforth be and remain of the tenure of free and common socage: Provided always, that if any such lord of the manor or other person be under any legal disability, the powers of the said recited Acts, and of every other Act for building, hiring, or purchasing workhouses, or for acquiring lands for workhouse purposes, enabling persons under disability to convey or otherwise dispose of and deal with property, shall apply to such lord of the manor or other person as amply and fully as if the case had been expressly provided for in such Acts or any of them: Provided also, that if such lord of the manor or other person be dissatisfied with such valuation, and shall within seven days after a tender made to him of the amount thereof, or after notice left at his last known place of residence, or with his known agent, of such amount being ready to be paid to him or invested as aforesaid, send notice by the post to the Poor Law Commissioners of such dissatisfaction, it shall be lawful for the Poor Law Commissioners to direct a further valuation to be made, at or within such period as they may see fit, by two valuers, one to be named by the Poor Law Commissioners, and the other by such lord of the manor or other person, which two persons so named shall previous to their entering on their valuation name a third valuer to be referred to in case they disagree, and the award of such three valuers, or any two of them, shall be binding on all parties; and on payment or investment, under the provisions of the said recited Acts or any of them or of this Act, of the amount of such last-mentioned valuation, such lands or buildings and other hereditaments shall thenceforth be deemed enfranchised and discharged in manner aforesaid, and be and remain of the tenure of free

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and common socage: Provided always, that it shall be lawful for any overseers, guardians, lord of the manor, or other person to complete any voluntary agreement for the purchase and enfranchisement of any copyhold or customary lands, buildings, or other hereditaments, under the direction and with the approbation of the Poor Law Commissioners, in like manner as if such agreement had been originally made under this Act, anything in the said Acts, or either of them or in this Act to the contrary notwithstanding; and in every such case, if any lord of the manor or other person be under legal disability, the power of the said recited Acts and of any other Act for building, hiring, or purchasing workhouses, or for acquiring lands for workhouse purposes, enabling persons to convey or otherwise dispose of or deal with property, shall apply to such lord of the manor or other person as amply and fully as if the case had been expressly provided for in such Acts or any of them.

Steward of manor to enter certificate of enfranchisement on rolls of the manor, and to furnish a parchment copy thereof to the Poor Law Commissioners, &c.

III. When and so soon as any such enfranchisement as aforesaid shall have been made, it shall be lawful for the steward of the manor whereof the same lands or buildings were parcel, and he is hereby required, on receipt of a certificate of such valuation being made and enfranchisement effected, under the hands and seal of the Poor Law Commissioners, to enter such certificate on the rolls or books of the said manor, and to furnish a copy of such entry, written on parchment, to the Poor Law Commissioners, or to such person or persons as they may direct, and to certify the same to be a true extract under his hand; and such certificate or a copy thereof under the seal of the Poor Law Commissioners shall thenceforth be evidence of such enfranchisement.

Forms of conveyances, &c. under recited Acts and this Act.

IV. All conveyances or instruments by way of sale or exchange, or assignment or security or transfer, to be made under the authority of the said recited Acts or either of them, or of this Act, may be made in such form as the Poor Law Commissioners shall by any order or orders signed by them and sealed with their common seal direct or approve of, or as near thereto as the number of parties, the nature of the interests, and the circumstances of each case will admit, and shall be valid and effectual in the law, without livery of seisin being made, or any bargain and sale to vest possession being executed, and without being enrolled.

CRIMINAL LUNATICS ACT, 1838.

1 & 2 VICT. CHAP. 14.

An Act to repeal so much of an Act of the Thirty-ninth and Fortieth Years of King George the Third as authorizes Magistrates to commit to Gaols or Houses of Correction Persons who are apprehended under Circumstances that denote a Derangement of Mind and a Purpose of committing a Crime; and to make other Provisions for the safe Custody of such Persons. [30th March, 1838.]

[Preamble recited 39 & 40 Geo. 4, c. 40, s. 3.]

[Sect. 1. Repealing 39 & 40 Geo. 4, c. 40, s. 3, repealed by the S. L. R. Act (No. 2), 1874.]

Persons apprehended as deranged and intending to commit some crime may be sent to lunatic asylums.

II. . . . if at any time . . . any person shall be discovered and apprehended under circumstances that denote a derangement of mind and a purpose of committing some crime for which, if committed such person would be liable to be indicted, it shall and may be lawful for any two justices of the peace of the county, city, borough, or place where such person shall be so . . . apprehended, to call to their assistance a physician, surgeon, or apothecary, and if upon view and

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Note.

The words omitted from this section are repealed by the S. L. R. Act (No. 2), 1874.

By sect. 340 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5), the provisions of that Act do not, unless so expressly stated, extend to criminal lunatics; and so far as the treatment of such lunatics as paupers is concerned, it is governed by this Act and the Criminal Lunatics Act, 1884 (47 & 48 Vict. c. 64).

For the restrictions and regulations in relation to an order of removal, see Archbold's Poor Law, 15th ed., pp. 644 *et seq.*

By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 15, any lunatic found wandering at large may be apprehended, examined, and, if necessary, sent to an asylum.

The guardians of the union of which the parish, in which the lunatic is adjudicated to be settled, forms part will now be the parties to appeal. (See 28 & 29 Vict. c. 79, s. 2.)

The jurisdiction of justices under this section to inquire into the settlement of the lunatic is not limited to the time of making the order by which he is conveyed to the asylum, but may be exercised at any subsequent time, and no order can be made on the county for the expenses until the justices have inquired and failed to ascertain the place of settlement. The provisions in the proviso with regard to appeal only come into operation when an appeal has been commenced, and therefore the treasurer of the asylum is a proper person to send the notice of chargeability and other documents required by the Poor Law Acts to the guardians of the union to be affected by the adjudication of settlement (*Reg.* v. *Elsley*, 15 Q. B. 1025; 20 L. J. M. C. 18).

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examination of the said person so . . . apprehended, or from other proof, the said justices shall be satisfied that such person is insane or a dangerous idiot, the said justices, if they shall so think fit, by an order under their hands and seals, directed . . . to the constable or overseers of the poor of the parish, township or place where such person shall be apprehended, shall cause the said person to be conveyed to and placed in the county lunatic asylum, provided there be one situated within or belonging to the county in which such person shall be . . . apprehended, and if there be no such asylum, then to some public hospital, or some house duly licensed for the reception of insane persons; and it shall be lawful for the said justices to inquire into and ascertain, by the best legal evidence that can be procured under the circumstances of personal legal disability of such insane person or dangerous idiot, the place of the last legal settlement of such person; and it shall and may be lawful for such two justices to make an order under their hands and seals upon the overseers or churchwardens of such parish, township, or place where they adjudge him or her to be legally settled, to pay all reasonable charges of examining such person, and conveying him or her to such county lunatic asylum, public hospital, or licensed house, and to pay such weekly sum for his or her maintenance in such place of custody as they or any two justices shall, by writing under their hands, from time to time direct; and where such place of settlement cannot be ascertained, such order shall be made upon the treasurer of the county, city, borough or place where such person shall have been . . . apprehended: Provided always, that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend from taking such insane person or dangerous idiot under their own care and protection, if he shall enter into sufficient recognizance for his or her peaceable behaviour or safe custody, before two justices of the peace, or the court of quarter sessions, or one of the judges of Her Majesty's Courts in Westminster Hall: Provided always, that the churchwardens and overseers of the parish in which the justices shall adjudge any insane person or dangerous idiot to be settled, may appeal against any such order to the next general quarter sessions of the peace to be holden for the county where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, giving reasonable notice thereof to the clerk of the peace of the county, riding, or division, or to the town clerk of the city, borough, or place, as the case may be, upon whose rates the burden of maintaining such insane person or dangerous idiot might fall, if such order should be invalid, and such clerk of the peace or town clerk shall be respondent in such appeal; which appeal the justices of the peace assembled at the said general quarter sessions are hereby authorized and empowered to hear and determine, in the same manner as appeals against orders of removal are now heard and determined.

Justices may inquire into settlement of such persons, and make order for payment of their maintenance, &c.

Act not to prevent relations &c. from taking such persons under their own care.

Appeal against order for maintenance.

[Sect. 3. *Persons proved not to be insane to be liberated:* Spent and repealed by the S. L. R. Act (No. 2), 1874.] Sect. 3.

IV. Nothing herein contained, except where otherwise expressly mentioned, shall alter the laws relating to the discharge of persons who may cease to be insane or dangerous idiots from any county lunatic asylum, public hospital, or house duly licensed for the reception of insane persons, nor authorize the removal by any parish officer of any poor person from such asylum, public hospital, or licensed house, without an order for that purpose made by two justices of the peace for the county in which such house shall be situated, after due inquiry into the circumstances of the case, unless such person shall have been discharged as cured. Act not to alter laws relating to the discharge of recovered lunatics, &c.

V. This Act shall extend only to England and Wales. Extent of Act.

[Sects. 6, 7 (formal sections). Repealed by the S. L. R. Act (No. 1), 1874.]

POOR RELIEF (LOANS) ACT, 1838.

1 & 2 VICT. CHAP. 25.

An Act to explain and amend an Act of the Seventh Year of His late Majesty, for extending the period for the Repayment of Loans made under an Act passed in the Fourth and Fifth Year of His said late Majesty for the Amendment and better Administration of the Laws relating to the Poor in England and Wales.* [11th June, 1838.]

[Preamble recited 4 & 5 Will. 4, c. 76, ss. 21, 24; 6 & 7 Will. 4, c. 107.]

[I.] All the powers, authorities, and provisions contained in the said Act of the session of Parliament holden in the sixth and seventh years of the reign of His said late Majesty, shall be Provisions of 6 & 7 Will. 4, c. 107, shall extend to

* For "Poor Law Commissioners" in this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

For discharge of lunatics generally, see the Lunacy Act, 1890 (53 & 54 Vict. c. 5), ss. 72, 84; for discharge of criminal lunatics by Secretary of State, see Criminal Lunatics Act, 1884 (47 & 48 Vict. c. 64), s. 5. Sect. 4. Note.

The statute 6 & 7 Will. 4, c. 107, which extended the period for repayment of loans to guardians is repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29). The repayment of all such loans is now regulated by sect. 1 of that Act. Sect. 1. Note.

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loans made by chartered or incorporated companies or corporations.

deemed and taken to apply, extend, and relate to all loans which have been or shall hereafter be effected or made by any chartered or incorporated company or corporation, in the same manner, to all intents and purposes, as if such loan had been made by a private person.

Provision for the liquidation of loans for the building or enlarging of workhouses, &c.

II. And whereas previous to the passing of the first herein-before recited Act, divers sums of money have been frequently lent to churchwardens and overseers of parishes or townships, or to other persons, on behalf of parishes or townships, to be applied for the purpose of building, altering, enlarging, purchasing, and fitting up houses for the reception of the poor, or of purchasing or hiring land in order to erect buildings thereon, or for other purposes permanently beneficial to such parishes or townships; but in many cases there exist no funds out of which the repayment of such sums can be legally enforced: And whereas it is expedient to make such provision as herein-after is mentioned for the liquidation of such loans as aforesaid: It shall be lawful for the guardians of any union or of any parish placed separately under a board of guardians, and for the guardians or trustees, guardian or trustee of any dissolved union, or for the person or persons who were the guardians or guardian, trustees or trustee of any dissolved union at the time of its dissolution, or who had been the last acting guardians thereof, or a majority of such guardians, trustees, or persons, with the approbation and subject to the rules, orders, and regulations of the Poor Law Commissioners, to apply the produce arising from the sale of any workhouses or other property belonging to any such union, or to any parish comprised in such union, or to any parish placed separately under a board of guardians, or belonging or which did belong to such dissolved union, which has already been or may hereafter be sold under the provisions of the secondly herein-before recited Act (after deducting the reasonable expenses of such sale), in liquidation of any debts, liabilities, or engagements incurred or made by or on behalf of any such union, or of any parish therein, or of any separate parish or dissolved union respectively, which the Poor Law Commissioners shall consider to constitute a fair and just claim against any such union or parish, notwithstanding that the payment of any such debt, liability, or engagement may not be capable of being legally enforced: Provided always, that no such application as herein-before is mentioned of the produce of the sale of the property of any parish shall be made except with the consent of a majority of the ratepayers of such parish, and

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Note.

It does not appear that the provisions of this section apply to any debts incurred after the passing of the Poor Law Amendment Act, 1834. If the section has any application at the present time, the consent of the owners and ratepayers required in the proviso may, in the case of a rural parish, be given by the parish meeting (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (1)).

of the owners of property therein entitled to vote under and by virtue of the said first-recited Act, assembled at a meeting to be duly convened and held for the purpose, after public notice of the time and place and purpose of holding such meeting shall have been given, in like manner as notices of vestry meetings are published and given; such majority to be ascertained in manner provided by the said first-recited Act.

THE VAGRANCY ACT, 1838.

1 & 2 VICT. CHAP. 38.

An Act to amend an Act for punishing idle and disorderly Persons and Rogues and Vagabonds. [27th July, 1838.]

[Preamble recited 5 Geo. 4, c. 83.]

Persons convicted who have been discharged out of custody on having appealed against conviction, and do not appear to prosecute such appeal may be re-committed.

[I.] When any person aggrieved by any act or determination of any justice or justices of the peace out of sessions, in or concerning the execution of the said Act, shall have appealed against such act or determination according to the provisions of the said Act, and shall thereupon have been discharged out of custody, and such person shall not personally appear and prosecute such appeal at the general or quarter sessions according to the recognizance entered into on such appeal, it shall be lawful for the justices assembled at such general or quarter sessions, or for any justice of the peace for the county or place in which such person shall have been convicted, on proof of the said conviction, and on proof by certificate under the hand of the clerk of the peace for the said county or place or of the person acting as his deputy that the person so convicted did not personally appear to prosecute such appeal, to issue a warrant for the apprehension and committal of such person for such period of time as, together with the days during which such person so convicted shall have been imprisoned (if any) previous to being discharged by reason of appeal, shall complete the full term for which such person was adjudged to be imprisoned at the time of his or her said conviction.

Persons exposing obscene prints, &c. in shop windows liable on conviction to punishment.

II. [*Recital of* 5 *Geo.* 3, *c.* 83, *s.* 5.] Every person who shall wilfully expose or cause to be exposed to public view in the window or other part of any shop or other building situate in any street, road, highway, or public place, any obscene print, picture, or other indecent exhibition, shall be deemed to have wilfully exposed such obscene print, picture, or other indecent exhibition to public view within the intent and meaning of the said Act, and shall accordingly be liable to be proceeded against, and on conviction to be punished, under the provisions of the said Act.

[Sect. 3. Repealed by the S. L. R. Act, 1874.]

PENSIONS ACT, 1839.

2 & 3 VICT. CHAP. 51.

An Act to regulate the Payment and Assignment in certain Cases of Pensions granted for Service in Her Majesty's Army, Navy, Royal Marines, and Ordnance.

[17th August, 1839.]

[So much of this Act as relates to the repayment of relief administered to Chelsea and Greenwich out-pensioners is repealed by 9 & 10 Vict. c. 10, s. 2.]

[Preamble recited 59 Geo. 3, c. 12; 6 Geo. 4, c. 27.]

[Sect. 1. Repealing part of 59 Geo. 3, c. 12, and the whole of 6 Geo. 4, c. 27: Repealed by the S. L. R. Act (No. 2), 1874.]

Where relief is given to pensioners, &c. by admission into workhouse, guardians may require payment of pensions to be made to them, &c.

II. When relief shall be given to any person entitled to or in receipt of any army or naval pension, or any superannuation or other allowance in respect of his service in the army, navy, marines, or ordnance, or any other branch of the military service, or in any civil branch of the army, navy, marines, or ordnance, or to his wife, or to any person whom he may be liable to maintain, by admission of such pensioner, his wife, or person, into the workhouse of any union or parish, it shall be lawful for the guardians of such union, by minute, in the form in the schedule to this Act annexed marked (A.) with respect to any pension payable at Chelsea Hospital or payable out of any funds intrusted to the commissioners of Chelsea Hospital for the payment of pensions, and in the form in the schedule to this Act marked (B.) with respect to any Greenwich out-pensions, and in the form in the schedule to this Act marked (C.) with respect to any other of the before-mentioned pensions, superannuation, or allowance, to require that the next payment which shall become due of such pension or allowance, shall be made to such guardians, who shall transmit a copy of such minute, attested by their clerk, at least one month before such payment shall become due, and addressed as to pensions or allowances payable at Chelsea Hospital or by the commissioners of the said hospital to the secretary of Chelsea Hospital, with the words "Chelsea pension" written thereon, and as to Greenwich out-pensions to the Paymaster-General, Out-pension Office, Tower Hill, with the words "Greenwich out-pension" written thereon, and as to all other the before-mentioned pensions to the Paymaster-General, Whitehall, London; and the commissioners of Chelsea Hospital and Her Majesty's Paymaster-General respectively shall thereupon, and upon the like proof being given as is herein-after directed with respect to assignments, cause payment to be made to such guardians; and the

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said guardians shall thereupon enter upon their minutes the nature and amount of relief actually given to such pensioner or his wife or other person, and upon application made by the said pensioner to the clerk of the said guardians shall inform the said pensioner of the amount thereof; and the said guardians so receiving any pension or allowance shall retain and apply so much thereof as will repay the cost of relief actually given as aforesaid, for the use and indemnity of the union or parish, and shall pay the surplus (if any) to the pensioner or person entitled thereto; and upon the receipt of any such minute as aforesaid the payment of the pension or other allowance mentioned therein shall be suspended until sufficient proof shall have been given to entitle the guardians named in such minute to receive the money thereby required to be paid to them; provided that where such relief shall not be given to the pensioner himself, the said guardians, before transmitting any such minute as aforesaid, shall obtain satisfactory proof that the person to whom such relief shall be given is the lawful wife of the said pensioner, or a person whom such pensioner is by law liable to maintain, which proof shall also be entered upon the minutes of the said board of guardians.

Pensioners applying to guardians, &c. for temporary relief, may assign payments of pension to them, &c.

III. When any pensioner or person entitled to or in receipt of any pension or other allowance as aforesaid, shall apply for temporary relief to the guardians of any union or parish in England or Ireland, or to the churchwardens or overseers of any parish in which the administration of the relief of the poor has not been directed to be governed by a board of guardians, or not situate within any union, so long only as such parish is not governed by such guardians nor situate within any union, or to the heritors and kirk session in Scotland, or shall receive relief from the said guardians, churchwardens, and overseers, or heritors and kirk session, it shall be lawful for the said guardians or churchwardens and overseers of the poor, and heritors and kirk session, but not compulsory upon them, to grant such relief in such case, or in the event of any pensioner receiving relief without previous application on his part, and to require the pensioner applying for or receiving the same to assign to them respectively his next quarterly payment of pension or other allowance, to the intent that such guardians or churchwardens and overseers, or heritors and kirk session respectively, may receive the same, and retain for the use of the said union or parish so much thereof as shall have been by them respectively advanced for the temporary relief of such pensioner, or of his wife or family residing with him in such union or parish; and every assignment to be made of any such pension or other allowance for the purposes and according to the tenor of this Act shall be exempt from stamp duty, and shall, as to any pensions payable at Chelsea Hospital or by the commissioners thereof, be in the form set out in the schedule to this Act marked (D.), and as to Greenwich out-pensions in

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the form set out in the schedule to this Act marked (E.), and as to all other the before-mentioned pensions and allowances payable by Her Majesty's Paymaster-General in the form set out in the schedule to this Act marked (EE.); and every assignment shall be certified by the chairman and clerk of the said union at some meeting of the board of guardians, or by a churchwarden or overseer of such parish, or one of the heritors, and shall be attested by one of Her Majesty's justices of the peace; and every such assignment shall be transmitted, within seven days after the same shall have been executed, and at least one month before the payment thereon shall become due, under cover, addressed, as to pensions payable at Chelsea Hospital or by the commissioners of the said hospital, to the secretary of Chelsea Hospital, with the words "Chelsea pensioner" written thereon, and with respect to naval pensions to the Paymaster-General, Out-pension Office, Tower Hill, with the words "Greenwich out-pension" written thereon, and as to all other the before-mentioned pensions, to the Paymaster-General, Whitehall, London; who shall thereupon respectively cause the payment thereof to be made to the said guardians of the union or parish, or to the churchwardens and overseers of the poor of the parish, or to the overseers of the poor alone where there are no churchwardens, or heritors and kirk session, for whose security the assignment shall have been made, in the same manner as the said payment would have been made to the person assigning the same, if no such assignment had been made; and such guardians, or churchwardens and overseers, or heritors and kirk session, are hereby authorized to receive the same, and to retain thereout, for the use of the said union or parish, so much as shall have been advanced and paid on security thereof; and the said guardians, churchwardens and overseers, or heritors and kirk session respectively, shall keep an account in writing of the sum or sums so advanced, and also, immediately upon the receipt of the said pension, shall pay the residue thereof (if any) to the pensioner by whom such assignment shall have been made; and if any question shall arise between the pensioner making any such assignment and the guardians, or churchwardens and overseers of the poor, or heritors and kirk session, receiving the same, touching the amount which shall be due and payable to them respectively by virtue of any such assignment, the same shall be determined in a summary way by one of Her Majesty's justices of the peace, and his order and determination therein shall be final and conclusive: Provided always, that no such assignment shall entitle the said guardians, or churchwardens and overseers, or heritors and kirk session, to whom the same shall be made, to receive the pension or allowance purporting to be thereby assigned, if the same shall not have been transmitted within seven days after the same shall have been executed, if the party assigning the same shall die before the time when such pension would have become payable to him, as if no such

assignment thereof had been made: Provided also, that all assignments not made in conformity with the provisions of this Act shall be null and void. Sect. 3.

IV. When any pensioner or other person entitled to or in receipt of any army, naval, or other pension or allowance as aforesaid, shall leave his wife or family in any union or parish, or shall suffer them to become chargeable to any union or parish, it shall be lawful for two or more of Her Majesty's justices of the peace for the county or place in which such union or parish is situate, upon complaint thereof made on oath to them by any one or more of the guardians of any such union or parish, or any one of the churchwardens and overseers of the poor of such parish where no union or board of guardians is established, or by the relieving officer of such union or parish, or the heritors and kirk session in Scotland, and upon due and satisfactory proof being given to the said magistrates that the person so left is the lawful wife of the said pensioner, or the lawful child (as the case may be), by order under their hands and seals, as to army pensions payable at Chelsea Hospital or by the commissioners thereof in the form set out in the schedule to this Act marked (F.), and as to Greenwich out-pensions in the form set out in the schedule to this Act marked (G.), and as to all other the before-mentioned pensions and allowances payable by Her Majesty's Paymaster-General in the form set out in the schedule to this Act marked (H.), to direct that one-half of the next payment which shall become due of such pension or other allowance, in case it shall be the wife or one child only who shall have been so left or suffered to become chargeable, or two-thirds thereof in case a wife and child, whether his own or a step-child, or two or more children, shall have been left or suffered to become chargeable, shall be made to the guardians of such union or parish, or to the churchwardens and overseers of the poor of the parish, or heritors and kirk session, to which such wife or family shall have become chargeable; and such guardians or churchwardens and overseers of the poor, or heritors and kirk session, shall transmit or cause to be transmitted such order as to such army pensions as aforesaid to the commissioners for the affairs of the Royal Hospital at Chelsea, and with respect to such naval and other pensions as aforesaid to the Paymaster-General, Whitehall, London, in like manner and within the like period as any assignment is herein-before directed to be transmitted; which said commissioners of Chelsea Hospital and Her Majesty's Paymaster-General respectively shall thereupon, and upon sufficient proof being given to their satisfaction respectively that the person whose pension shall be directed to be paid shall have been living when the same has become payable, and would have been entitled to receive the same if no such order had been made, cause the said payment of one moiety or two-thirds, as the case may be, to be made to the said guardians of the union, or churchwardens and

Where pensioners leave wife, &c. to become chargeable to the union, &c., justices may direct payment of pensions to be made to guardians, &c.

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overseers of the poor of the parish, or heritors and kirk session, for whose security such order shall have been made; and the guardians or churchwardens and overseers of the poor, or heritors and kirk session, receiving any such pension by virtue of any such order, shall retain and apply the same, or so much thereof as shall have been actually expended for the purposes aforesaid, for the use and indemnity of the said union or parish, and shall pay the overplus (if any there shall be) to the pensioner or person entitled thereto; and upon the receipt of any such order as aforesaid by which the pension to be mentioned therein shall be directed to be paid as aforesaid, the payment thereof shall be suspended until sufficient proof, by the personal appearance of the pensioner before the collector of excise, or in such other manner as shall be directed by the lords and others commissioners of Chelsea Hospital, or Paymaster-General, shall have been given, to entitle the said guardians or churchwardens and overseers of the poor of the parish in such order named, or heritors and kirk session, to receive the money thereby directed to be paid to them; and upon the like proof, the other moiety or one-third, as the case may be, of the quarterly payment of the said pension shall be paid by the commissioners of Chelsea Hospital and Her Majesty's Paymaster-General respectively to the pensioner entitled thereto, upon his own receipt: Provided that in all cases where it shall be made to appear to the said justices that the woman relieved or to be relieved as the wife of the said pensioner shall be notoriously profligate, or cohabiting with any other person than her said husband, it shall be lawful for the said justices, and they are hereby required, to refuse making any order with respect to the payment of the said pension.

[Sect. 5. *As to pensions of insane pensioners:* Repealed by the S. L. R. Act (No. 2), 1874.]

11 Geo. 4 & 1 Will. 4, c. 20, s. 70.

VI. And whereas by an Act passed in the eleventh year of the reign of His late Majesty King George the Fourth, to amend and consolidate the laws relating to the pay of the royal navy, power is vested in the commissioners for executing the office of lord high admiral to direct pensions payable to the officers and seamen of the royal navy, and to the officers of marines and to marines, who shall become lunatic, or so much of such pensions as the said commissioners shall think fit, to be disposed of in the maintenance of such lunatic persons; and it is expedient that such power should be extended to the pensions, superannuations, and other allowances made to persons for services in the civil departments of the navy: Be it therefore enacted and declared, that in all cases when any such persons as last mentioned are or shall become lunatic, such pensions, superannuations, or other allowances, or so much thereof as the said commissioners for executing the office of lord high admiral shall deem expedient, shall and may be paid by the Paymaster-General

When persons receiving pensions for services in civil departments of the navy become

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to the wife, relative, or other person having the care and maintenance of the lunatic, to be applied towards his support; and the receipt of the wife, relative, or other person as aforesaid to whom the shall be so paid, shall be a sufficient discharge to the said Paymaster-General for the same.

lunatic, the pensions shall be paid to their wives, &c. for their support.

VII. If it shall happen that the minute of any board of guardians, and any assignment by the person entitled, and any order of justices relating to the same pension, or any two of such instruments, shall, as to such army pensions be received at Chelsea Hospital, and as to such Greenwich out-pensions be received at the Pension Office, Tower Hill, London, or as to any other of such pensions or other allowance as aforesaid be received at the office of the Paymaster-General at Whitehall, in any one quarter, the commissioners of Chelsea Hospital or Her Majesty's Paymaster-General respectively shall pay the quarter's pension upon such one of the said respective instruments as shall have been first executed according to the date thereof, and duly transmitted, so as to enable the commissioners and Her Majesty's Paymaster-General respectively, according to their usual course of forwarding the receipts for quarterly pensions, to confer such priority; and in the event of any such instruments being dated and received the same day, then a proportionate part of the pension to which such instruments relate shall be paid upon every or each of the said instruments.

In case of more than one assignment or order, &c. the quarter's pension shall be paid according to priority of dates.

VIII. And whereas great frauds have been practised, and exorbitant and usurious interest obtained from pensioners, upon assignments made under colour of the said Act of the fifty-ninth year of the reign of His said late Majesty King George the Third, and according to the form set out in the said Act, although the money advanced thereon has not been advanced out of parish funds, nor to reimburse a parish for relief given to the pensioner by the churchwardens and overseers: Be it therefore enacted, that if any person entitled to pension or other allowance shall assign or aid or assist in making an assignment thereof, or of any quarterly or other payment thereof, to any person or persons whatsoever, except to the guardians of any union or parish, or to the churchwardens and overseers of the poor of the parish wherein such pensioner resides, or to the heritors and kirk session of any place in Scotland where such pensioner resides, and except for relief granted out of the funds of such union, parish, or townland to such pensioner, or his wife or family residing with him in such parish, it shall be lawful for the lords and others commissioners of Chelsea Hospital, so far as relates to army or other pensions payable by such commissioners, and for the lord high admiral, or commissioners for executing the office of lord high admiral, with respect to naval and marine pensions or other allowance, immediately to take away the pension from the person so offending, or to suspend for any definite period the future

59 Geo. 3, c. 12.

Punishment of persons assigning or assisting to assign pensions otherwise than to guardians, &c.

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payments thereof; and if any person or persons shall procure or induce a pensioner to make or aid or assist him in making any assignment of pension, superannuation, or other allowance as aforesaid, to any person or persons other than the guardians of any union or parish as aforesaid, or the churchwardens and overseers of the parish wherein such pensioner resides, or any heritors and kirk session in Scotland as aforesaid, or shall make or aid or assist in making any assignment which shall not be given by the said pensioner or person entitled to other allowance as aforesaid, and received by the said guardians, parish officers, or heritors and kirk session as a security for relief given or money granted or advanced out of the funds of such union, parish, townland, or place, and for reimbursing the guardians, churchwardens and overseers, or heritors and kirk session advancing the same, or shall receive or accept as payment or security for money or for goods advanced or agreed to be advanced to or lent or given to any such pensioner or person entitled as aforesaid, or shall demand or charge any interest or pecuniary or other compensation for advancing money upon any pension or other allowance so assigned or taken, or pretended to be assigned or taken, such person or persons shall for every such offence be deemed guilty of a misdemeanour, and shall upon every conviction thereof be punished by such fine or imprisonment, or both, as the court before which such person or persons shall be convicted shall adjudge.

Persons forging documents, &c. guilty of felony, &c.

IX. If any person shall forge or counterfeit or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly and willingly act, aid, or assist in forging, counterfeiting, or altering, any minute, copy of minute, assignment of pension, superannuation, or other allowance as aforesaid, order, certificate, receipt, document, or authority whatsoever relating to or in anywise concerning the claiming or obtaining payment of any pension money or other allowance as aforesaid, or shall utter or publish as true, or knowingly and willingly act, aid, or assist in uttering or publishing as true, knowing the same to be forged, counterfeited, or altered, any such minute, copy, assignment, order, certificate, receipt, document, or authority relating to or anywise concerning the claiming or obtaining payment of any pension money or other allowance as aforesaid, or the name of any pensioner, justice of the peace, guardian, parish officer, or other officer, or any other person authorized, or supposed or purporting to be authorized, to sign any such minute, copy, assignment, order, certificate, receipt, document, or authority, with intent or in order to obtain, or to enable any other person to obtain, the payment of any such pension or pension money or other allowance as aforesaid from the commissioners of Chelsea Hospital or Her Majesty's Paymaster-General respectively, or from any officer, under officer, clerk, or servant of the said commissioners of Chelsea Hospital or of Her Majesty's Paymaster-General respectively, or from any person authorized or

supposed to be authorized to pay any pension or pension money or other allowance, as aforesaid, every such person so offending shall be guilty of felony. . . . Sect. 9.

X. The term "parish" shall extend, wherever the context shall so require, to all places separately maintaining their own poor. Definition of "parish."

SCHEDULES TO WHICH THE FOREGOING ACT REFERS.

SCHEDULE (A.).

Form of Minute of Board of Guardians.

The guardians of the union or parish of in the county of do hereby certify to the lords and others commissioners of the Royal Hospital for Soldiers at Chelsea in the county of Middlesex, that , an out-pensioner from the regiment of at per diem, was on the day of received into the workhouse at [*or* that the wife or other relation whom the said is bound to maintain, as the case may be], by order of the said guardians: and the said guardians do thereupon, in pursuance of an Act passed in the year of Her Majesty Queen Victoria, intituled [the title of this Act], require that the next quarter's pension of the said shall be paid to the said guardians, to be applied pursuant to the provisions of the said Act of Parliament.

Dated

Certified on the day of at a meeting of the board of the said guardians by

A. B., chairman.
C. D., clerk.

To the Lords and others
Commissioners of Chelsea Hospital.

SCHEDULE (B.).

Form of Minute of Board of Guardians.

The guardians of the union or parish of in the county of do hereby certify to Her Majesty's Paymaster-General, that , a Greenwich out-pensioner, No. , at per annum, was on the day of received into the workhouse at [*or* that the wife or other relation whom the said is bound to maintain, as the case may be], by order of the said guardians; and the said guardians do thereupon, in pursuance of an Act passed in the year of Her Majesty Queen Victoria, intituled [the title of this Act], require that the next quarter's pension of the said shall be paid to the said guardians

Schedules.

to be applied pursuant to the provisions of the said Act of Parliament.

Dated

Certified on the day of at a meeting of the board of the said guardians by

A. B., chairman.
C. D., clerk.

To Her Majesty's Paymaster-General,
Greenwich Out-pension Office, Tower Hill.

SCHEDULE (C.).

Form of Minute of Board of Guardians.

The guardians of the union or parish of in the county of do hereby certify to Her Majesty's Paymaster-General, that , a person entitled to [here state whether for pension or allowances in civil or military service, not as Chelsea or Greenwich out-pensioner] at per annum, was on the day of received into the workhouse at [*or* that the wife or other relation whom the said is bound to maintain, as the case may be], by order of the said guardians; and the said guardians do thereupon, in pursuance of an Act passed in the year of Her Majesty Queen Victoria, intituled [the title of this Act], require that the next quarter's pension of the said shall be paid to the said guardians, to be applied pursuant to the provisions of the said Act of Parliament.

Dated

Certified on the day of at a meeting of the board of the said guardians by

A. B., chairman.
C. D., clerk.

To Her Majesty's Paymaster-General,
Whitehall, London.

SCHEDULE (D.).

I [naming the pensioner, and the regiment from which he was discharged] do hereby assign to the guardians of the union or parish of [*or*, as the case may be, the churchwardens and overseers of the poor of the parish of *or* to the heritors and kirk session of], in which union [*or* parish] I am now residing, the next payment of my pension at the rate of per diem, granted to me as and payable from in order to secure to the said union [*or* parish] of the repayment of the sum of advanced to me by such guardians [*or* churchwardens and overseers, *or* heritors and kirk session, as the case may be], out of the funds of the said union [*or* parish].

, pensioner.

Signed by the above-named before me, one of Her

Majesty's justices of the peace for , this day of .

, justice.

We do hereby certify the above assignment to be made pursuant to Act Victoria, cap. , intituled [stating the title of this Act], and to be for relief given out of the funds of the said union [*or* parish] on the day of at a meeting of the board of the said guardians.

A. A., chairman.
A. B., clerk.
Or C. D., the churchwarden, and
D. E., the overseer of
Or E. F., one of the heritors, and
F. G., an elder of

SCHEDULE (E.).

I [naming the pensioner] do hereby assign to the guardians of the union or parish of [*or*, as the case may be, the churchwardens and overseers of the poor of the parish of , *or* to the heritors and kirk session of], in which union [*or* parish] I am now residing, the next payment of my Greenwich out-pension at the rate of per annum, granted to me as and payable from , in order to secure to the said union [*or* parish] of the repayment of the sum of advanced to me by such guardians [*or* churchwardens, *or* overseers, *or* heritors and kirk session, as the case may be], out of the funds of the said union [*or* parish].

, pensioner.

Signed by the above-named before me, one of Her Majesty's justices of the peace for , this day of .

, justice.

We do hereby certify the above assignment to be made pursuant to Act Victoria, cap. , intituled [stating the title of this Act], and to be for relief given out of the funds of the said union [*or* parish] on the day of at a meeting of the board of the said guardians.

A. A., chairman.
A. B., clerk.
Or C. D., the churchwarden, and
D. E., the overseer of
Or E. F., one of the heritors, and
F. G., an elder of

SCHEDULE (EE.).

I [naming the person] do hereby assign to the guardians of the union [*or* parish] of [*or*, as the case may be, the churchwardens and overseers of the poor of the parish of

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, *or* to the heritors and kirk session of], in which union [*or* parish] I am now residing, the next payment of my [here state whether for pension or allowances in civil or military services, not as Chelsea or Greenwich out-pensioner] at per annum, and payable from , in order to secure to the said union [*or* parish] of the repayment of the sum of advanced to me by such guardians [*or* churchwardens, *or* overseers, *or* heritors and kirk session, as the case may be] out of the funds of the said union [*or* parish].

, pensioner.

Signed by the above-named before me, one of Her Majesty's justices of the peace for , this day of .

, justice.

We do hereby certify the above assignment to be made pursuant to Act Victoria, cap. , intituled [stating the title of this Act], and to be for relief given out of the funds of the said union [*or* parish] on the day of at a meeting of the board of the said guardians.

A. A., chairman.
A. B., clerk.
Or C. D., the churchwarden, and
D. E., the overseer of
Or E. F.. one of the heritors, and
F. G., an elder of

SCHEDULE (F.).

Form of Order to be made in pursuance of Victoria, cap. .

County of } To the Right Honourable the Lords and others
} Commissioners of the Royal Hospital, Chelsea.

Whereas complaint upon oath hath been made unto us, two of Her Majesty's justices of the peace acting in and for the said county, by the of the union [*or* parish] of in the county aforesaid, that , late a soldier in the regiment of , but now a pensioner of the Royal Hospital at Chelsea from the said regiment at the rate of per diem, hath suffered his to become chargeable thereto, and that now maintained by the said union [*or* parish] at the expense of per week, and due proof having been given to us of the said being the lawful wife [*or* lawful children] of the said [*or* that the said is liable to maintain the said , as the case may be]:

Now we do hereby, in pursuance of the statute in that case made and provided, order and direct, that [one moiety, *or* two-thirds, as the case may be] of the next payment which shall become due of such pension shall be paid by the said

commissioners to the guardians [*or* churchwardens and overseers, *or* heritors and kirk session, as the case may be] of the said union [*or* parish] of , in order that they may retain and apply the same, or so much thereof as shall have been actually expended as aforesaid, for the use and indemnity of the said union [*or* parish], paying the overplus (if any) to the pensioner or person entitled thereto.

Given under our hands and seals this day of in the year of our Lord one thousand eight hundred and at in the county aforesaid.

SCHEDULE (G.).

Form of Order to be made in pursuance of Victoria, cap. .

County of } To Her Majesty's Paymaster-General.

Whereas complaint upon oath hath been made unto us, two of Her Majesty's justices of the peace acting in and for the said county, by the of the union [*or* parish] of in the county aforesaid, that a Greenwich out-pensioner, No. , at the rate of per annum, hath suffered his to become chargeable thereto, and that now maintained by the said union [*or* parish] at the expense of per week, and due proof having been given to us of the said being the lawful wife [*or* lawful children] of the said [*or* that the said is liable to maintain the said as the case may be]:

Now we do hereby, in pursuance of the statute in that case made and provided, order and direct, that [one moiety, *or* two-thirds, as the case may be] of the next payment which shall become due of such pension shall be paid by Her Majesty's Paymaster-General to the guardians [*or* churchwardens and overseers, *or* heritors and kirk session, as the case may be] of the said union [*or* parish] of , in order that they may retain and apply the same, or so much thereof as shall have been actually expended as aforesaid, for the use and indemnity of the said union [*or* parish], paying the overplus (if any) to the pensioner or person entitled thereto.

Given under our hands and seals this day of in the year of our Lord one thousand eight hundred and at in the said county of .

SCHEDULE (H.).

Form of Order to be made in pursuance of Victoria, cap. .

County of } To Her Majesty's Paymaster-General.

Whereas complaint upon oath hath been made unto us, two of Her Majesty's justices of the peace acting in and for the said

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county, by of the union [*or* parish] of in the county aforesaid, that , a person entitled to [here state whether for pension or allowances in civil or military service, not as Chelsea or Greenwich out-pensioner], at the rate of per annum, hath suffered his to become chargeable thereto, and that the said is [*or* are] now maintained by the said union [*or* parish] at the expense of per week, and due proof having been given to us of the said being the lawful wife or lawful children of the said , or that the said is liable to maintain the said (as the case may be):

Now we do hereby, in pursuance of the statute in that case made and provided, order and direct, that [one moiety, *or* two-thirds, as the case may be] of the next payment which shall become due of such pension shall be paid by Her Majesty's Paymaster-General to the guardians [*or* churchwardens and overseers, *or* heritors and kirk session, as the case may be] of the said union [*or* parish] of , in order that they may retain and apply the same, or so much thereof as shall have been actually expended as aforesaid, for the use and indemnity of the said union [*or* parish], paying the overplus (if any) to the pensioner or persons entitled thereto.

Given under our hands and seals this day of in the year of our Lord one thousand eight hundred and at in the said county of .

TITHE ACT, 1839.

2 & 3 VICT. CHAP. 62.

An Act to Explain and Amend the Acts for the Commutation of Tithes in England and Wales. [17th August, 1839.]

[Only so much of this Act is here printed as may have a bearing upon poor rates.]

* * * * *

Assessors on notice from owner shall specify names of occupiers of tithes and lands and the sums assessed thereon.

III. The assessor or collector of any rate or tax shall, within forty days after the receipt of a notice in writing signed by any land owner or tithe owner interested therein, specify in his assessment made for the purpose of collecting and levying such rate or tax the names of the several occupiers of tithes, lands, and tenements subject to such rate or tax, as well as the sum assessed on the tithes, lands, or tenements held by each such occupier.

* * * * *

METROPOLITAN POLICE COURTS ACT, 1839.

2 & 3 VICT. CHAP. 71.

An Act for regulating the Police Courts in the Metropolis.
[24th August, 1839.]

[Only so much of this Act is here printed as has been brought into question in matters relating to the poor law.]

[*Preamble.*]

* * * * *

XIV. It shall be lawful for any one of the said magistrates appointed or hereafter to be appointed to do alone any act at any of the said courts, or at any place where Her Majesty shall order any such court to be holden within the limits of the metropolitan police district for the time being, which by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice: Provided always, that none of the said magistrates shall be competent to act as a justice of the peace, either alone or with any other justice or justices, in any thing which is to be done at a special

One magistrate may do any act directed to be done by more than one justice.

Magistrates not to act as justices at sessions.

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Note.

Similar powers are given to stipendiary magistrates by 21 & 22 Vict. c. 73, s. 1, as are given to metropolitan magistrates by this section.

Orders of removal may be made by a metropolitan magistrate under the powers given by this section in the same way as by two justices. An order as follows: "Whereas complaint has been made to me, one of Her Majesty's justices of the peace in and for the county of Middlesex (one of the police magistrates of the metropolis sitting at the police court, Great Marlborough Street, in the parish of St. James', Westminster, within the metropolitan police district) by, &c., that J. J. and E. E. are lately come into the said parish, endeavouring to settle there contrary to law; and it appeareth unto me, the said police magistrate of the metropolis, and I do adjudge that they are become chargeable to the said parish," was held to show sufficiently that it was made by a magistrate of the police courts of the metropolis under this section, but to be bad for not stating that it was made upon a complaint that the paupers had become chargeable (*Reg.* v. *St. Giles-in-the-Fields*, 7 Q. B. 529; 15 L. J. M. C. 122; 2 N. S. C. 389; 10 Jur. 754).

An order began "Whereas complaint hath been made to me, B. C., one of the magistrates of the police courts of the metropolis sitting at the Clerkenwell police court within the metropolitan police district," &c., and ended "Given, &c., at the police court aforesaid this 29th day," &c.; it was held that the order sufficiently appeared to have been made at a police court established under this Act, and therefore showed jurisdiction in the magistrate singly to make the order (*Reg.* v. *Hammersmith*, 11 Q. B. 391; 17 L. J. M. C. 47; 3 N. S. C. 84; 12 Jur. 754).

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or petty session of all the justices acting in the division, or by the justices of any of the said counties or liberties in quarter session assembled.

* * * * *

In case any house be in a filthy or unwholesome condition, magistrate may order the same to be cleansed.

XLI. If the guardians of the poor of any union or parish, or the churchwardens and overseers of the poor of any parish, within the metropolitan police district, together with the medical officer for any such parish or union, shall be of opinion, and shall certify under the hands of two or more of such guardians, churchwardens, or overseers, and also of such medical officer, that any house or part of any house within such union or parish is in such filthy and unwholesome condition that the health of the inmates or of the public is thereby affected or endangered, it shall be lawful for any magistrate acting within the district in which such union or parish is situate, if he shall think fit, to cause notice to be affixed on the door or other conspicuous part of such house, requiring the occupier or occupiers of such house or part thereof to appear before him to answer such complaint, or to cause the same to be cleansed within seven days from the date of affixing such notice; and if within the said seven days such house or part thereof shall not be cleansed to the satisfaction of such medical officer, and if such occupier or occupiers being duly summoned shall not appear before the magistrate and show sufficient cause to the contrary, such magistrate is hereby empowered, on proof thereof, to issue an order under his hand and seal to the guardians of the poor or the churchwardens and overseers aforesaid, to cause such house or part thereof to be cleansed, at the expense of such occupier or occupiers, and to cause the amount thereof to be levied, in case of non-payment by distress and sale of the goods and chattels of such occupier or occupiers, by warrant under the hand and seal of such magistrate.

* * * * *

Appeal to quarter sessions.

L. In every case of summary order or conviction before any of the said magistrates, in which the sum or penalty adjudged to be paid shall be more than three pounds, or in which the penalty adjudged shall be imprisonment for any time more than one calendar month, any person who shall think himself aggrieved by the order or conviction may appeal to the justices of the peace at the next general or quarter sessions of the peace . . . and it shall be lawful for the magistrate by whom

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Note.

An order by a metropolitan police magistrate to pay 2*s.* 6*d.* a week towards the relief and maintenance of a certain pauper for and during so long a time as she should be chargeable, is not an order in which the sum adjudged to be paid is more than 3*l.*, so as to give a right of appeal under this section (*Reg.* v. *London JJ.*, *Ex parte Greenwich Union*, [1900] 1 Q. B. 438).

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such order or conviction shall have been made to bind over the witnesses who shall have been examined, in sufficient recognizances, to attend and be examined at the hearing of such appeal; and every such witness, on producing a certificate of his being so bound, under the hand of the magistrate, shall be allowed compensation for his time, trouble, and expenses in attending the appeal, which compensation shall be paid, in the first instance, by the treasurer of the county, in like manner as in cases of misdemeanour under the provisions of an Act passed in the seventh year of the reign of King George the Fourth, intituled "An Act for improving the Administration of Criminal Justice in England"; and in case the appeal shall be dismissed, and the order or conviction affirmed, the reasonable expenses of all such witnesses attending as aforesaid, to be ascertained by the court, shall be repaid to the treasurer of the county by the appellant.

7 Geo. 4, c. 64.

* * * * *

COUNTIES (DETACHED PARTS) ACT, 1839.

2 & 3 VICT. CHAP. 82.

An Act for the better Administration of Justice in detached Parts of Counties. [26th August, 1839.]

[Preamble recited that the administration of justice is hindered by the distance of divers detached parts of counties in England and Wales from the body of the counties to which they severally belong.]

Justices may act in detached parts of other counties locally included in their county.

[I.] It shall be lawful for any justice or justices of the peace acting for any county to act as a justice or justices of the peace in all things whatsoever concerning or in anywise relating to any detached part of any other county which is surrounded in whole or in part by the county for which such justice or justices acts or act; and all acts of such justice or justices of the peace, and of any constable or other officer in obedience thereto, shall be as good, and all offenders in such detached part may be committed for trial, tried, convicted, and sentenced, and judgment and execution may be had upon them in like manner, as if such detached part were to all intents and purposes part of the county for which such justice or justices acts or act; and all constables and other officers of such detached part are hereby required to obey the warrants, orders, and acts of such justice or justices, and to perform their several duties in respect thereof, under the pain and penalties to which any constable or other officer may be liable for a neglect of duty.

Expenses arising from prosecution of

II. The treasurer of every county in England and Wales shall keep an account of all expenses occasioned to such county

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offenders to be repaid by the county to which they belong.

by any act of such justice or justices of the peace in or with respect to any such detached part of any other county, or out of the prosecution, maintenance, and punishment, conveyance and transport, of all offenders committed from such detached part, and shall twice in every year send a copy of such account to the treasurer of the other county to which such detached part belongs; and the treasurer of such other county shall out of the monies in his hands as treasurer pay the same to the order of the treasurer sending the account, with all reasonable charges of making and sending the account; and in case any difference shall arise concerning the said account, and such difference shall not be adjusted by agreement, it shall be lawful for either of the parties to apply to the justices of assize of the last preceding circuit or of the next succeeding circuit, or to one of such justices, who shall by writing under their or his hands or hand nominate a barrister-at-law, not having any interest in the question, to arbitrate between the parties; and such arbitrator may, if he shall see fit, adjourn the hearing from time to time, and require all such further information to be afforded by either of the parties as shall appear to him necessary, and shall by his award in writing determine the matters in difference, and his award shall be final and conclusive between the parties; and such arbitrator shall also assess the costs of the arbitration, and shall direct by whom and out of what fund the same shall be paid.

Meaning of "county" in this Act.

III. In construing this Act the word "county" shall be taken to mean and include county, riding, division, and parts of a county having a separate commission of the peace.

[Sect. 4. Repealed by the S. L. R. Act, 1874.]

POOR RATE ACT, 1839.

2 & 3 VICT. CHAP. 84.

An Act to amend the Laws relating to the Assessment and Collection of the Rates for the Relief of the Poor.*

[26th August, 1839.]

[*Preamble.*]

Proceedings in case contributions required by guardians are in arrear.

[I.] In every case in which any contribution by overseers or other officers of any parish of monies required by the board of guardians or persons acting as guardians for such parish, or for any union which shall include such parish for the performance of their duties, shall be in arrear, it shall be lawful for any two

* For "Poor Law Commissioners" throughout this Act, now read "Local Government Board" (34 & 35 Vict. c. 70).

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justices acting within the district wherein such parish shall be situate, on application under the hand of the chairman or acting chairman of such board, to summon the said overseer

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Sect. 1.

Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 63, overseers are liable to a penalty of 20*l.* if they neglect to make or collect sufficient rates for the relief of the poor, or to pay to the guardians such monies as they may require, whereby relief to any poor person is delayed for seven days.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 7, if a copy of a contribution order be served upon any one of the overseers, the order may be enforced against that one so served as effectually as if a copy thereof had been also served upon every one of the overseers.

By the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 9, "Where the overseer or any other officer of any parish, or any officer of a union, shall neglect to pay in due course of law money lawfully payable by him as such overseer or officer to the treasurer of such union or parish, residing or having his place of business in a county, district, or place different from that in which such overseer or officer shall reside at the time of any such default, and by reason of such neglect such overseer or officer shall be liable to be summoned before a justice or justices, any justice or justices of either county, district, or place shall have jurisdiction to hear and determine the complaint."

Monies assessed for the relief of the poor may be levied and recovered by distress and imprisonment under 43 Eliz. c. 2, amended by various Acts, and especially by the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14).

A special case may be stated under the Summary Jurisdiction Act, 1857 (20 & 21 Vict. c. 43), upon an application to justices under this section, so as to confer a right of appeal from the decision of the justices (*City of London Union* v. *Acocks*, 8 C. B. (N. S.) 760).

Justices have a certain discretion under this section whether or not to issue a warrant against the overseers. The guardians of a union claimed and received sums from the overseers of a township under precepts based upon the then existing valuation list. It was subsequently decided, on an appeal against a rate by the owners of a colliery, that their colliery was over-valued. The overseers did not appeal, but having refunded the amount overpaid by the colliery owners, claimed credit for the excess paid by them to the guardians. *Held* that the guardians might give credit for the sums overpaid by the overseers, and that the justices were right in refusing to enforce by distress warrant the guardians' contribution order based on the old valuation list when it appeared that they had already received from the overseers sums in excess of what they were entitled to, and would credit the overseers with such over-payments (*Tynemouth Guardians* v. *Backworth Overseers*, 57 L. J. M. C. 53). But where the overseer of a parish which had been duly annexed to a union, was ordered by the guardians to pay certain money towards the common fund, and he refused to pay: held that the justices were not justified in refusing to issue a warrant under this section, merely because they thought it unjust that such extra-parochial places should be compelled to contribute

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or other officers to show cause, at a special sessions to be summoned for the purpose, why such contribution has not been paid, and after hearing the complaint preferred under the authority of such chairman or acting chairman, and on behalf of such board, if the justices at such sessions shall think fit, by warrant under their hands and seals to cause the amount of the contribution so in arrear, together with the costs occasioned by such arrear, to be levied and recovered from the said overseers or other officers, or any of them, in like manner as monies assessed for the relief of the poor may be levied and recovered, and the amount of such arrear, together with the costs as aforesaid, when levied and recovered, to be paid to the said board: Provided always, that no distress made under any such warrant of justices shall be replevisible.

Validity of and proceedings under orders of Poor Law Commissioners directing appointment of collectors of rates.

II. All orders heretofore made and issued under the hands and seals of the Poor Law Commissioners, and not rescinded by them or quashed before the sixth day of May in the present year, by which the said commissioners may have directed the overseers or guardians of any parish or union to appoint any person to collect the rates for the relief of the poor in any parish or parishes, or shall have defined or specified or directed the execution of the duties of such person, or the places or limits within which the same shall be performed, or shall have directed the mode of appointment, or determined the continuance in office or dismissal of any such person from his office, or the amount or nature of the security to be given by any such person, or shall have regulated the amount of salary payable to any such person, or the time or mode or the proportions of

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Note.

to the common fund of the union (*Reg.* v. *Boteler*, 33 L. J. M. C. 101; *Ex p. Bridgend and Cowbridge Union*, 9 L. T. (N. S.) 720).

By this section "the Legislature merely meant to give to two magistrates the same power of enforcing a legal obligation to contribute as a magistrate had previously to enforce a legal poor rate against a person legally liable, and the only matter left for the decision of the magistrate is, whether they should, under the circumstances of each case (among others the fact whether the overseers had a right to have had money in hand out of the poor rates) allow the overseers to be distrained upon or not. The existence of a legal obligation to pay this contribution is, therefore, a necessary preliminary condition to the magistrate having any authority in this case to enforce it" (*Newbould* v. *Coltman*, 6 Exch. 189; 20 L. J. M. C. 149; 15 J. P. 372, *per* Parke, B.).

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Note.

This section was enacted in consequence of certain orders of the Poor Law Commissioners which directed guardians to appoint collectors of poor rates having been declared invalid by the Court of Queen's Bench in *Reg.* v. *Poor Law Commissioners, Re Cambridge Union*, 9 A. & E. 911; 8 L. J. M. C. 77.

The provisions of this section are recited in and extended by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 61, 62.

payment thereof, shall be deemed and the same are hereby declared to have the same force and validity as if the same had been warranted by an Act passed in the fourth and fifth years of the reign of His late Majesty King William the Fourth, intituled "An Act for the amendment and better Administration of the Laws for the Relief of the Poor"; and the commissioners shall have the same powers and authorities with respect to all such orders, and to the persons appointed in pursuance thereof, as they have with respect to orders made and issued and the paid officers appointed under the provisions of the said Act; and every person appointed by guardians of the poor under any such order of the said commissioners shall have the like powers, authorities, privileges, immunities, protections, and remedies, in and for the performance of his duty under such order, as are by law given to overseers of the poor in the performance of the like duty.

Sect. 2.

4 & 5 Will. 4 c. 76.

III. Provided always that nothing herein contained shall in anywise affect the right of the inhabitants in vestry to give directions for the custody and safe keeping of any books, papers, and documents, under the provisions of [the Vestries Act, 1818].

Saving as to certain rights of vestries under 58 Geo. 3, c. 69.

[Sects. 4, 5. Repealed by the S. L. R. Act (No. 2), 1874.]

POOR RATE EXEMPTION ACT, 1840.

3 & 4 VICT. CHAP. 89.

An Act to exempt, until the Thirty-first Day of December, one thousand eight hundred and forty-one, Inhabitants of Parishes, Townships, and Villages from Liability to be rated as such, in respect of Stock in Trade or other Property, to the Relief of the Poor.*

[10th August, 1840.]

"WHEREAS by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled 'An Act for the Relief of

43 Eliz. c. 2.

* See 43 Eliz. c. 2. s. 1.

Sect. 1.

Note.

Formerly, as appears in the preamble, inhabitants of a parish were rateable for their stock in trade and all visible property locally situate within the parish and producing profit (see *Reg.* v. *Lumsdaine*, 10 A. & E. 157; 2 P. & D. 219; 3 Jur. 360; *Rex* v. *Ambleside*, 10 East, 380), and for any ship of which profit was made, if its place of domicile were within the parish (*Rex* v. *Jones*, 8 East, 851).

Rateability in respect of mines is now extended from coal mines to other mines by the Rating Act, 1874 (37 & 38 Vict. c. 54), s. 3; and so much of 43 Eliz. c. 2, s. 1, as relates to the taxation of an occupier of saleable underwoods is repealed by sect. 14 of that Act, and provision made by sects. 3 and 4 for the assessment of occupiers of plantations, woods, and saleable underwoods.

Sect. 1.

the Poor,' it was amongst other things provided, that the overseers of every parish should raise, by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods, in the said parish, in such competent sum and sums of money as they shall think fit, a convenient stock of necessary ware and stuff to set the poor on work, and also competent sums of money for and towards the relief of the poor not able to work, and also for the putting out of poor children to be apprentices, to be gathered out of the same parish according to the ability of the same: And whereas by another Act passed in the session of Parliament holden in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled 'An Act for the better Relief of the Poor of this Kingdom,' the provisions of the said Act of Elizabeth were extended to certain townships and villages: And whereas, by reason of the provisions of the said Acts, it has been held that inhabitants of parishes, townships, and villages, as such inhabitants, are liable, in respect of their ability derived from the profits of stock in trade and of other property, to be taxed for and towards the relief of the poor, and it is expedient to repeal the liability of inhabitants, as such, to be so taxed:" It shall not be lawful for the overseers of any parish, township, or village to tax any inhabitant thereof, as such inhabitant, in respect of his ability derived from the profits of stock in trade or any other property, for or towards the relief of the poor: Provided always, that nothing in this Act contained shall in anywise affect the liability of any parson or vicar, or of any occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods, to be taxed under the provisions of the said Acts for and towards the relief of the poor.

13 & 14 Car. 2, c. 12.

Stock in trade, &c., not to be rated.

[Sect. 2. *Duration of Act:* Repealed by the S. L. R. Act (No. 2), 1874.]

SCHOOL SITES ACT, 1841.

4 & 5 VICT. CHAP. 38.

An Act to afford further Facilities for the Conveyance and Endowment of Sites for Schools. [21st June, 1841.]

[*Preamble.*]

[Only so much of this Act is printed here as relates to the grant or sale of parochial property for the purposes appearing in sect. 2.]

* * * *

Sect. 2.

Limited owners may convey land to be used as sites for schools, &c.

II. Any person, being seised in fee simple, fee tail, or for life, of and in any manor or lands of freehold, copyhold, or customary tenure, and having the beneficial interest therein, or in Scotland being the proprietor in fee simple or under entail, and in possession for the time being, may grant, convey, or enfranchise by way of gift, sale, or exchange, in fee simple or for a term of years, any quantity not exceeding one acre of such land, as a site for a school for the education of poor persons, or for the residence of the schoolmaster or schoolmistress, or otherwise for the purposes of the education of such poor persons in religious and useful knowledge; provided that no such grant made by any person seised only for life of and in any such manor or lands shall be valid, unless the person next entitled to the same in remainder, in fee simple or fee tail (if legally competent), shall be a party to and join in such grant: Provided also, that where any portion of waste or commonable land shall be gratuitously conveyed by any lord or lady of a manor for any such purposes as aforesaid, the rights and interest of all persons in the said land shall be barred and divested by such conveyance: Provided also, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this Act mentioned, the same shall thereupon immediately revert to and become a portion of the said estate held in fee simple or otherwise, or of any manor or land as aforesaid, as fully to all intents and purposes as if this Act had not been passed, any thing herein contained to the contrary notwithstanding.

Land to revert on ceasing to be used for a school.

* * * * *

Corporations, justices, trustees, &c. may convey

VI. It shall be lawful for any corporation, ecclesiastical or lay, whether sole or aggregate, and for any officers, justices of the peace, trustees, or commissioners, holding land for public,

Sect. 2.

Note.

A grant or inclosure of common purporting to be made under the general authority of this Act will not now be valid unless (1) specially authorized by Act of Parliament, or (2) made to or by any Government department, or (3) made with the consent of the Board of Agriculture. (See the Commons Act, 1899 (62 & 63 Vict. c. 30), s. 22).

Sect. 6.

Note.

For "Poor Law Commissioners" in this section now read "Local Government Board" (34 & 35 Vict. c. 70).

It is doubtful whether the concurrence of the guardians is now necessary in the case of rural parishes, as their powers with regard to the sale, &c., of parochial property are now transferred to the parish council by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*d*).

In rural parishes the consent of the parish meeting is substituted for that of the ratepayers and owners of property by sect. 52 (1) of the Local Government Act, 1894.

The lands and premises belonging to any county are now vested in the county council by sect. 64 of the Local Government Act, 1888 (51 & 52 Vict. c. 41).

7 Geo. 4, c. 18, is repealed by 28 & 29 Vict. c. 126, s. 73; but

Sect. 6.

lands for the purposes of this Act.

ecclesiastical, parochial, charitable, or other purposes or objects, subject to the provisions next herein-after mentioned, to grant, convey, or enfranchise, for the purposes of this Act such quantity of land as aforesaid in any manner vested in such corporation, officers, justices, trustees, or commissioners: Provided always, that no ecclesiastical corporation sole, being below the dignity of a bishop, shall be authorized to make such grant without the consent in writing of the bishop of the diocese to whose jurisdiction the said ecclesiastical corporation is subject: Provided also, that no parochial property shall be granted for such purposes without the consent of a majority of the ratepayers and owners of property in the parish to which the same belongs, assembled at a meeting to be convened according to the mode pointed out in the Act passed in the sixth year of the reign of His late Majesty, intituled "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations or Unions of Parishes in England and Wales," and without the consent of the Poor Law Commissioners, to be testified by their seal being affixed to the deed of conveyance, and of the guardians of the poor of the union within which the said parish may be comprised, or of the guardians of the poor of the said parish where the administration of the relief of the poor therein shall be subject to a board of guardians, testified by such guardians being the parties to convey the same: Provided also, that where any officers, trustees, or commissioners, other than parochial trustees, shall make any such grant, it shall be sufficient if a majority or quorum authorized to act of such officers, trustees, or commissioners, assembled at a meeting duly convened, shall assent to such grant, and shall execute the deed of conveyance, although they shall not constitute a majority of the actual body of such officers, trustees, or commissioners: Provided also, that the justices of the peace may give their consent to the making any grant of land or premises belonging to any county, riding, or division by vote at their general quarter sessions, and may direct the same to be made in the manner directed to be pursued on the sale of the sites of gaols by an Act passed in the seventh year of the reign of His late Majesty George the Fourth, intituled "An Act to authorize the Disposal of unnecessary Prisons in England."

5 & 6 Will. 4, c. 69.

7 Geo. 4, c. 18.

* * * * *

Definition of the term "parish."

XX. The term "parish" in this Act shall be taken to signify every place separately maintaining its own poor, and having its own overseers of the poor and church or chapel wardens.

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Sect. 6. Note.

sect. 76 of that Act provides that references to the repealed Act are to be construed as references to the corresponding provisions of the repealing Act.

Sect. 20. Note.

It would appear from this definition that the operation of sect. 6 is confined to the sale, &c., of parochial property in parishes which are both poor law and ecclesiastical parishes.

PARISH APPRENTICES ACT, 1842.

5 & 6 VICT. CHAP. 7.

An Act to explain the Acts for the better Regulation of certain Apprentices. [23rd March, 1842.]

[*Recital of* 20 *Geo.* 2, *c.* 19 ; 33 *Geo.* 3, *c.* 55 ; 4 *Geo.* 4, *c.* 29.] AND whereas by an Act passed in the thirty-second year of the reign of King George the Third, intituled "An Act for the further Regulation of Parish Apprentices," certain enactments were made concerning parish apprentices, upon the binding out of whom no larger sum than five pounds had been or should be paid: And whereas doubts have been entertained whether the said Acts apply to the case of any apprentice where no sum of money was paid on the binding of such apprentice : 32 Geo. 3, c. 57.

[I.] All the powers and provisions of the said Acts and each of them shall be taken to extend to apprentices where no sum or premium of apprenticeship has been or shall be paid on the binding of such apprentice. Recited Acts extended.

PARISH PROPERTY AND PARISH DEBTS ACT, 1842.

5 & 6 VICT. CHAP. 18.

An Act to explain and amend the Acts regulating the Sale of Parish Property ; and to make further Provision for the Discharge of Debts, Liabilities and Engagements incurred by or on behalf of Parishes.* [13th May, 1842.]

WHEREAS by an Act passed in the sixth year of the reign of His late Majesty, intituled "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes, and of Incorporations or Unions of Parishes, in England and Wales," it was among other things enacted, that it should be lawful for 5 & 6 Will. 4, c. 69, s. 1.

* For "Poor Law Commissioners" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Note.

This Act is repealed by the S. L. R. Act (No. 2), 1888, except so far as it relates to 32 Geo. 3, c. 57, so far as that Act is in force.

The other recited Acts are repealed either wholly or so far as they relate to apprentices.

the guardians and overseers of the poor of any parish or union of parishes, under the direction and with the approbation of the Poor Law Commissioners for England and Wales, to dispose of, by way of absolute sale, or in exchange for any messuages, lands, or other hereditaments, any lands or buildings, for the purpose of the same being used as the site of a workhouse, or of being occupied with a workhouse, or for any other purpose relating to the relief of the poor which the said Poor Law Commissioners might approve of, and doubts have been raised as to the meaning in certain cases of this provision:

Sect. 1.

Sales, &c. under recited Act and 7 Will. 4 & 1 Vict. c. 50, of land of parish or union not formed by Poor Law Commissioners to guardians of unions formed by them, valid.

5 & 6 Will. 4, c. 69, s. 3.

[I.] All sales, lettings, exchanges, or dispositions of lands, buildings, or other property belonging to any parish or union not formed by the Poor Law Commissioners, which shall have been or shall be made for any of the said recited purposes by virtue of the said Act, and of the statute amending the same passed in the first year of the reign of Her Majesty, under the order of the said commissioners, by a majority of the overseers of such parish or of the last acting guardians of such union respectively, to the guardians of any union formed by the said commissioners, shall be and be taken to have been valid.

II. And whereas by the said Act it was further enacted, that it should be lawful for the guardians of any parish or union, and for the overseers of any parish not under the management of a board of guardians, and for the guardians or trustees, guardian or trustee of any dissolved union, or the person or persons who were the guardians or trustees, guardian or trustee of any dissolved union at the time of its dissolution, or a majority of such guardians, trustees, or persons, if more than one, with the approbation and subject to the rules, orders, and regulations of the Poor Law Commissioners, to sell, exchange, let, or otherwise dispose of any workhouse, tenements, buildings, land, effects, or other property belonging to any such parish or union, or vested

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Sect. 1. Note.

The object of this section was to validate sales of workhouses, &c., to guardians of new unions constituted under 4 & 5 Will. 4, c. 76, made by overseers or by guardians of incorporations for the benefit of the poor which existed previously to 4 & 5 Will. 4, c. 76, and were dissolved in consequence of the passing of that Act. The operation of the whole Act is now to a great extent spent.

Sect. 2. Note.

The doubt which existed as to the meaning of 5 & 6 Will. 4, c. 69, s. 3, was whether guardians of a union were authorized to sell, &c., property belonging to individual parishes in the union, the words seeming to imply that they could only dispose of property belonging to the union.

In rural parishes the sale, &c., of parish property by guardians of the union comprising such parish with the approval of the Local Government Board is now transferred to the parish council by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*d*).

Sect. 2.

in trustees or feoffees in trust for such parish or union, or for the parishioners, ratepayers, or inhabitants thereof, or which belong or did belong to any dissolved union, and every or any part of such property, and to convey, assign, or transfer the same accordingly to the purchasers or parties exchanging, as they should direct; which said provisions have been extended by the said Act passed in the first year of the reign of Her present Majesty; and doubts have arisen as to the meaning and extent of such provisions: Be it therefore declared and enacted, that the said provisions shall be deemed to have authorized and to authorize the sale, exchange, letting, and disposal, by the guardians of a union formed or to be formed by the said commissioners, of any workhouse, tenements, buildings, land, effects, or other property belonging to any parish which shall be comprised in the said union, and in cases of the sale, exchange, letting, and disposal of workhouses, tenements, buildings, land, effects, and other property belonging to a dissolved union to have applied and to apply to a majority of the persons who were the last acting guardians previous to the dissolution of such union: Provided always, that nothing in this Act shall be deemed to render valid or to authorize the sale, exchange, letting, or other disposition of any property whatsoever which shall have been given or bequeathed by way of charitable donation, or shall have been allotted in right of some charitable donation or otherwise, for the poor persons of any parish, and not for the general benefit of the ratepayers, parishioners, or inhabitants of such parish, nor to dispense with the consent of the ratepayers and owners of property required by the said last-recited Act to all sales, exchanges, lettings, or other dispositions of property belonging to any parish, except in the case next herein-after provided.

7 Will. 4 & 1 Vict. c. 50.

Recited provisions shall be deemed to authorize sale, &c. by guardians of unions formed by Poor Law Commissioners of any workhouse, &c.

Proviso for property given by way of charitable donation;

and for consent of ratepayers, &c. to sales, &c.

III. Where several parishes shall have been or shall be jointly interested in any workhouse, tenements, buildings, lands, whether of freehold, copyhold, or customary tenure, effects or other property, it shall be deemed to have been and shall be lawful for the said commissioners, upon the application of the overseers of the major part of such parishes, and with the consent of the ratepayers and owners of property in the major part of such parishes, to be ascertained in the manner directed by the said Act, to order the same to be sold, let, exchanged, or disposed of by the guardians of the union in which such parishes or the greater part thereof shall be situate, in such manner, and subject to such rules, orders, and regulations, as the said commissioners shall deem fit; and it shall be deemed to have been and to be lawful for the said commissioners to direct the application of the produce arising from such sale, letting, or disposition, in the same manner and to and for the same purposes as the produce arising from the sales of property belonging to other parishes may be applied to: Provided always, that where any conveyance, by way of sale, lease, exchange, disposition, or

Sale of property belonging jointly to several parishes.

All conveyances valid,

Sect. 3.

notwithstanding legal estate be outstanding in a trustee.

otherwise of any property belonging to a parish or union, whether dissolved or not, shall have been or shall hereafter be made by the guardians of any existing union, or a majority of the last acting guardians of any dissolved union, under the order of the said commissioners the same shall be deemed to have been and to be valid for all the purposes of such conveyance, although the legal estate in such property shall be or shall be presumed to be outstanding in some trustee or trustees who shall not have joined in such conveyance; and in cases of copyhold or customary lands the surrender of the tenant on the roll, being a trustee for any parish or union, shall not be required, but the admission of the party to whom the guardians or overseers shall, under the authority of the said recited Acts or this Act, have conveyed the same, shall take place upon the production to the steward of the manor of which such lands shall be held of the conveyance from such guardians or overseers duly executed, and upon payment of such fines, dues, or services to the lord of the manor of which the said lands shall be holden, and his steward, as they respectively would be entitled to upon the admission of such party after a surrender by a tenant on the roll.

Surrender of copyhold lands by tenant on the roll, trustee for parish, &c. unnecessary.

Provisions of recited Act shall extend to the payment of any *bonâ fide* parish debts recognized as existing within one year before passing of 4 & 5 Will. 4, c. 76.

IV. [*Recital of* 1 *&* 2 *Vict. c.* 25, *as to payment of parish debts out of proceeds of sales of parish property.*] The powers and provisions of the said recited Act shall extend and apply to the payment of any debts, liabilities, or engagements which heretofore have been *bonâ fide* entered into by the parish officers or other person or persons on behalf of any parish, and which shall be proved to the Poor Law Commissioners to have been recognized, within one year before the passing of the said Act of the fifth year of His late Majesty, as existing parish debts, liabilities, or engagements, by the inhabitants of such parish in vestry assembled, or by payment and allowance of interest thereon out of the funds applicable to the relief of the poor of such parish.

Poor Law Commissioners may, with consent of ratepayers, &c. order payment of such debts out of the poor rates.

V. It shall be lawful for the Poor Law Commissioners, by an order under their hands and seal, upon the receipt of a copy under the hands of the overseers of the poor of any parish of a resolution passed at a meeting of ratepayers and owners of property entitled to vote according to the provisions of the said Act of the fifth year of the reign of His late Majesty, duly convened and held for the purpose, after public notice of the time and place and purpose of holding such meeting shall have been given in like manner as notices of vestry meetings are published and given, consenting to the issue of such order, to direct the said overseers, by equal annual instalments, not exceeding ten, to pay

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Sect. 4.

Note.

As this and the four following sections apply only to debts and liabilities existing in the year 1842, it may be assumed that they have now ceased to have any operation.

Sect. 5.

or discharge, out of the poor rates, or other monies in their hands applicable in aid of the poor rates of the said parish, any such debt, liability, or engagement as aforesaid, together with all interest due or hereafter to accrue in respect of such debt, liability, or engagement; provided that the said commissioners shall be satisfied, before they issue any such order, that such debt, liability, or engagement constitutes a fair and just claim against the said parish, and shall approve of and sanction the discharge thereof.

Overseers may borrow money for the payment of such debts and charge the same on the poor rates.

VI. It shall be lawful for the said overseers, and they are hereby required, if so directed by such order and resolution as aforesaid, to borrow any sum that may be requisite to enable them to pay and discharge any such debt, liability, or engagement as aforesaid, or any part thereof, and to charge the poor rates of the said parish with the repayment of the sum borrowed for such purpose, and the interest thereof, so nevertheless that the sum so borrowed shall be repaid by equal annual instalments, not exceeding ten; . . .

Discharge of debts borrowed and secured under 22 Geo. 3, c. 83.

VII. [*Recital that various sums have been borrowed by parishes under the authority of* 22 *Geo.* 3, *c.* 83.] Where any parish is now or at any time hereafter shall be comprised in any union formed or to be formed under the said Act of the fifth year of the reign of His late Majesty, or shall be under the management of a board of guardians, and the poor rates thereof shall be liable to the payment of any debt duly borrowed and secured under the authority of the said Act of the twenty-second year of the reign of King George the Third, the guardians of such union or parish respectively shall be required to make such provision for the liquidation of the said debt in full, or by equal annual instalments, not exceeding ten, as the said commissioners shall by order under their hands and seal direct; and for such purpose such guardians are hereby empowered to make any order or orders upon the overseers of such parish as the said guardians may find necessary, and shall have all the same powers for enforcing such order or orders as they now have by law in regard to the contributions required by such guardians.

Act not to render any debts a charge on poor rates except as herein mentioned; and payment thereof out of poor rates,

VIII. Provided nevertheless that nothing in this Act contained shall be deemed or taken to render any debt, liability, or engagement a valid charge upon the poor rates of any parish which is not at the time of the passing hereof a subsisting legal charge thereon, except where such resolution shall have been passed and such order shall have been made as aforesaid: And provided always, that every payment out of the poor rates,

Sect. 7.

Note.

The statute 22 Geo. 3, c. 83, known as Gilbert's Act, having become inoperative, and all the unions formed under it having been dissolved, was repealed by the S. L. R. Act, 1871.

Sect. 8.

except as herein mentioned, to be unlawful.

either of principal and interest, in respect of any such debt, liability, or engagement, without such order of the said commissioners, shall be unlawful, and as such disallowed in the accounts of the officer or officers or other person paying the same.

Interpretation of Act.

IX. Every word used in this Act shall, where the context shall not be at variance with such interpretation, be deemed to express the meaning assigned thereto in the said recited Act of the fifth year of the reign of His late Majesty; and every order, regulation, mortgage, security, charge, or other instrument made and executed under the provisions of this Act shall be subject to the same incidents, exemptions, provisions, or regulations, as it would have been subject to if made under the powers contained in the said last-recited Act.

Orders, mortgages, &c. under this Act to be regulated as if made under 4 & 5 Will. 4, c. 76.

INCOME TAX ACT, 1842.

5 & 6 VICT. CHAP. 35.

An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices. . . .

[22nd June, 1842.]

[Only a few sections of this Act which have some bearing upon Poor Law matters or statutes are printed here.]

* * * * *

Commissioners entitled to certificates exempting them from parish and ward offices.

XXXV. Every person acting as a commissioner as aforesaid in the execution of this Act shall on request be entitled unto a certificate thereof under the hands of the commissioners of stamps and taxes, which certificate shall continue in force so long only as such person shall continue to act as such commissioner, and shall be revocable by the Treasury, by any instrument in writing, when it shall appear to them that such person hath neglected to perform his duty as such commissioner; and the person to whom such certificate shall have been granted shall, during the continuance thereof in force, be discharged of and from all parish and ward offices within the parish or ward wherein such person shall dwell, . . . which said certificate shall be enrolled by the clerk of the peace of the county or city in which the same shall be granted, for which enrolment the said clerk of the peace shall have for his fee the sum of one shilling, and no more; and the said clerk of the peace shall

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Sect. 35.

Note.

This section exempts an income tax commissioner from serving the office of overseer.

cause every certificate revoked in manner aforesaid to be taken off the roll on notice thereof to be given to him by the commissioners of stamps and taxes. Sect. 35.

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LII. Every person chargeable under this Act shall, when required so to do, whether by any general or particular notice given in pursuance of this Act, within the period to be mentioned in such notice as aforesaid, prepare and deliver to the person appointed to receive the same, and to whom the same ought to be delivered, a true and correct statement in writing, in such form as this Act requires, and signed by the person delivering the same, containing the annual value of all lands and tenements in his occupation, whether the same be situate in one or more parish or parishes, and the amount of the profits or gains arising to such person from all and every the sources chargeable under this Act, according to the respective schedules thereof, which amount shall be estimated for the period and according to the respective rules contained in the respective schedules of this Act; to which statement shall be added a declaration, that the same is estimated on all the sources contained in the said several schedules, describing the same, after setting against or deducting from such profits or gains such sums, and no other, as are allowed by this Act; and every such statement shall be made exclusive of the profits and gains accrued or accruing from interest of money or other annual payment arising out of the property of any other person, for which such other person ought to be charged by virtue of this Act. Statements to be delivered of the annual value of property and amounts of profits.

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LX. The duties hereby granted and contained in the said schedule marked (A.) shall be assessed and charged under the following rules; which rules shall be deemed and construed to be a part of this Act, and to refer to the said duties, as if the same had been inserted under a special enactment. Duties in schedule (A.) to be charged under the following rules.

SCHEDULE (A.). Schedule (A.). Rules.

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No. II.—RULES for estimating the Lands, Tenements, Hereditaments, or Heritages herein mentioned which are not to be charged according to the preceding General Rule.

The annual value of all the properties herein-after described shall be understood to be the full amount for one year, or the Manner of charging certain properties, &c. Sect. 52.

By the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 55, an occupier in the metropolis is required whenever a new valuation list is made to make to the overseers such statement or return as a person chargeable under the Income Tax Act and the Acts amending the same is bound to make in addition to the return which may be required from him by the assessment committee. The form of return is given in schedule (G.) to this Act. Note.

Pars. 1 and 3 of this rule are repealed so far as they relate to the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. Schedule (A.). Note.

Schedule (A.). Rules.

average amount for one year, of the profits received therefrom within the respective times herein limited :

Tithes in kind.

First.—Of all tithes, if taken in kind, on an average of the three preceding years :

Ecclesiastical dues.

Second.—Of all dues and money payments in right of the church or by endowment, or in lieu of tithes (not being tithes arising from lands), and of all teinds arising in Scotland, on the like average :

Tithes compounded.

Third.—Of all tithes arising from lands, if compounded for, and of all rents and other money payments in lieu of tithes arising from lands (except rent-charges confirmed under the Act passed for the commutation of tithes), on the amount of such composition, rent, or payment for one year preceding :

The said duty in each case to be charged on the person entitled to such tithes or payments, or his lessee or tenant, agent or factor, except in the cases mentioned in the fourth rule of No. IV. of schedule (A.) :

Manors.

Fourth.—Of manors and other royalties, including all dues and other services or other casual profits (not being rents or other annual payments reserved or charged), on an average of the seven preceding years, to be charged on the lord of such manor or royalty, or person renting the same :

Fines.

Fifth.—Of all fines received in consideration of any demise of lands or tenements (not being parcel of a manor or royalty demisable by the custom thereof), on the amount so received within the year preceding by or on account of the party ; provided that in case the party chargeable shall prove, to the satisfaction of the commissioners for general purposes in the district, that such fines, or any part thereof, have been applied as productive capital, on which a profit has arisen or will arise otherwise chargeable under this Act, for the year in which the assessment shall be made, it shall be lawful for the said commissioners to discharge the amount so applied from the profits liable to assessment under this rule :

Other profits from lands not in the occupation of the party to be charged.

Sixth.—Of all other profits arising from lands, tenements, hereditaments, or heritages, not in the actual possession or occupation of the party to be charged, and not before enumerated, on a fair and just average of such number of years as the said commissioners shall, on the statements of the party to be charged, judge proper (except such profits as may be liable to deduction in pursuance of the ninth or tenth rule in Number IV. herein-after mentioned), to be charged on the receivers of such profits, or the persons entitled thereto.

* * * * *

Schedule (A.). Note.

c. 67), s. 77 ; and by sect. 51 of that Act the overseers are not to include in the valuation list any hereditaments (except tithes or payment in lieu of tithes) which are charged according to the above rule.

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Assessors, on bringing in their assessments, shall, if required, give notice to overseers of the poor to produce the rate-books.

LXXV. The assessors to be appointed for the said duties in England shall, at the time of bringing in their assessments, if required so to do by any surveyor or inspector of the said duties, or by the respective commissioners, give notice to the overseers of the poor of the parish or place where they shall act, to produce or cause to be produced to the said commissioners the book or books, or a true copy thereof, in which shall have been entered the rates made for the relief of the poor of such parish or place, and also a true copy of the last rate made for the relief of the poor in such parish or place, and such overseers shall without fail produce such book or books to the said commissioners, or deliver the same to the said inspector or surveyor, for their use, and the said assessors shall declare in writing, signed by them, whether the said rates are made on the full value of the properties therein, or on any and what proportionate part thereof, to the best of their knowledge and belief; and the said commissioners shall, in case the said surveyor or inspector shall allege and show to the satisfaction of the said commissioners that the said assessments or any of them have not been made according to the directions of this Act, examine the said assessors, and also the overseers of the poor for the same parish or place, or any of them, being duly summoned for that purpose, on their oaths, touching the proportions between the said rates and the value of the properties charged therein, and whether the properties, or any and which of them, have been valued therein at the amount or at any and what proportion of the annual value thereof respectively, and what ought to be the just proportion between the rates on the different properties therein charged, if the amount of the values thereof and the same proportion between the rates had been observed throughout the rate, and also what property shall have been omitted to be rated, and which of the properties in the parish or place shall be entitled to be assessed on the profits or on an average of the profits according to this Act; and the said inspector or surveyor shall carefully examine the assessments made by the same assessors with the last rate made for the relief of the poor, in order that he may the better ascertain whether the said assessments have been made on all the properties situate in each parish, and according to the directions prescribed by this Act, and from the result of the said inquiries may rectify the same in any particulars which in his judgment may be requisite before the commissioners allow and sign such assessment as herein directed, and in so doing may pursue, if he think fit, the rules in Number XI. of this Act before mentioned, relating to the said rates for relief of the poor.

Commissioners may examine assessors and overseers touching the making of the assessments.

Inspector or surveyor may rectify assessments if not duly made.

Commissioners, &c. may inspect public rate-

LXXVI. The several commissioners, inspectors, surveyors, and assessors acting respectively in the execution of this Act, or any person authorized by them respectively, shall have liberty, from time to time and at all seasonable times, to inspect

Sect. 76.

books, and take copies or extracts.

Penalty for refusal to permit such inspection, &c.

and take copies of or extracts from any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, in any place within the limits for which they shall be appointed, without the payment of any fee whatever; and if any person in whose custody or power any of the said books shall be shall refuse or neglect to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said commissioners with any such book when required so to do in pursuance of this Act, such person so offending shall forfeit any sum not exceeding twenty pounds nor less than five pounds.

* * * * *

Schedule (G.), and the rules therein, to be observed in executing the Act.

CXC. The schedule marked (G.), with the rules and directions therein contained, shall, in making returns of the amount of annual value or profits on which any duty is chargeable under this Act, so far as the same are respectively applicable to the case of each person, corporation, company, or society described or mentioned in this Act, on behalf of themselves, and also of others for whom they act in any of the characters described in this Act, or herein-after mentioned, be observed by each such person, corporation, company, or society, or by his or their agents or officers, in the cases where such agents or officers are authorized to make such returns.

Schedule (G.). Rules.

SCHEDULE (G.).

By occupiers of lands, &c. charged under schedules (A.) and (B.).

I.—By every occupier of lands, tenements, hereditaments, or heritages throughout Great Britain, to be charged under schedules (A.) and (B.), or either of them.

A statement of the rent and annual value, or the annual value, as the case shall require, of all lands, tenements, and hereditaments, or heritages, occupied in every parish or place, distinguishing the proportions in each parish or place, and estimating separately such as are occupied as owner or tenant, and also such as are held under different landlords, and also such as are chargeable by the rent or annual value, or on the amount of profits; and also estimating separately the rent or annual value chargeable in respect of the property, and the amount chargeable in respect of the occupation, distinguishing the same as follows; (*videlicet*,)

Lands and tenements occupied as owner:

Lands and tenements let at rack-rent within seven years:

Lands and tenements let at rack-rent before the period of seven years, with the rent and annual value thereof estimated separately:

Lands and tenements let, but not at rack-rent, with the rent and annual value thereof estimated separately:

Schedule (G.).

The amount at which such lands and tenements are rated to the poor:

The amount of the composition, rent, rent-charge, or annual payment paid in the preceding year to the rector or vicar or other person, for tithes of the above lands and tenements:

The amount of each deduction claimed in respect thereof, and stating if tithe-free in part or in the whole, and the amount of any modus for tithes or real composition:

By lay impropriators and ecclesiastical persons under schedule (A.).

II.—By every lay impropriator, and by every ecclesiastical rector, vicar, or other person (describing himself) receiving any tithes, in kind, or any payments in right of the church, or by endowment, or in lieu of any tithes, and on all teinds in Scotland to be charged under schedule (A.), distinguishing the same as follows:

The amount of the profits from tithes taken in kind for one year, on an average of three years:

The amount of dues and money payable in right of the church or by endowment, or in lieu of tithes not arising from lands, on the above average:

The amount of compositions, rents, and payments in lieu of tithes arising from lands for the preceding year.

By persons, &c. carrying on quarries, &c. under schedule (A.).

III.—By every person, corporation, or company carrying on any concern herein-after mentioned, or their agents or officers, in the cases authorized to be charged under schedule (A.).

The amount of profits from quarries of stone, slate, limestone or chalk, in the preceding year:

Of iron works, salt springs or works, alum mines or works, waterworks, streams of water, canals, inland navigations, docks, drains, levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges and ferries, in the preceding year:

Of mines of coal, tin, lead, copper, mundic, iron and other mines on an average of five years.

By lords of manors, &c.

IV.—By every lord or lady of a manor or other royalty, or tenant of the same.

The amount of all dues and other services or other casual profits (except rents and annual payments) of such manors or royalties on an average of seven years.

By receivers of fines, under schedule (A.).

V.—By the receiver of any fine paid in consideration of a demise of lands or tenements (except customary) to be charged under schedule (A.).

The amount of such fines in the preceding year, or for such lesser period since the interest thereon commenced, and an estimate of the average value for one year.

Schedule (G.).

By profits from lands, &c. under schedule (A.).

VI.—By every person entitled to profits arising from lands, tenements, hereditaments, or heritages, not before stated, to be chargeable under schedule (A.).

The amount, on a fair average, to be allowed by the respective commissioners.

* * * * *

TITHE ACT, 1842.

5 & 6 VICT. CHAP. 54.

An Act to amend the Acts for the Commutation of Tithes in England and Wales. [30th July 1842.]

* * * * *

Power in certain cases to use tithe commutation maps for parochial purposes.

XIII. It shall be lawful for any board of guardians of any parish or union, with the consent of the Poor Law Commissioners, and subject to such conditions as the said Poor Law Commissioners may prescribe to pay out of the rates of any parish any portion of the cost of making or providing any map or plan which shall have been confirmed under the hands and seal of the Tithe Commissioners, or any other sum of money by way of consideration for the use of the said map or plan, for the purpose of estimating the net annual value of property in respect of which rates may be assessed for the relief of the poor; and after the Tithe Commissioners shall have certified in writing that such money has been paid, the overseers of the parish, or any person authorized by them in writing, or any officer of the said board of guardians, or any person authorized by them in writing, shall at all reasonable times have access to the copy of the said map or plan deposited with the incumbent and church or chapel wardens of the parish, or other persons

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Sect. 13.

Note.

The Poor Law Commissioners are now the Local Government Board (34 & 35 Vict. c. 70), and the Tithe Commissioners are the Board of Agriculture (45 & 46 Vict. c. 38, s. 48; 52 & 53 Vict. c. 30).

The Tithe Act, 1836 (6 & 7 Will. 4, c. 71), ss. 27, 63, provided for the confirmation of parochial agreements and instruments of apportionment by the Tithe Commissioners, but those sections are now repealed.

The Tithe Commissioners were empowered by the Tithe Act, 1839 (2 & 3 Vict. c. 62), s. 35, amended by the Tithe Act, 1840 (3 & 4 Vict. c. 15), c. 18, to settle disputed boundaries and set out the new boundary lines on a map or plan.

Other enactments authorizing the making of maps or plans for assessment purposes are the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 3, and the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 10.

approved by the said Tithe Commissioners, and may inspect and make copies or extracts from the said copy without paying anything for such access or inspection, or for making such copies or extracts. Sect. 13.

* * * * *

POOR LAW AMENDMENT ACT, 1842.

5 & 6 VICT. CHAP. 57.

An Act . . . for the further Amendment of the Laws relating to the Poor in England.*

[Preamble recited 4 & 5 Will. 4, c. 76; and certain continuation Acts then expired or expiring.]

[Sect. 1. *Continuing powers of commissioners, &c., for five years:* Repealed by the S. L. R. Act (No. 2), 1874.]

II. [*Provision as to appointment of assistant commissioners and other persons to conduct special inquiries, rep.* 10 & 11 *Vict. c.* 109, *s.* 22, *which makes other provisions for that purpose.*] Provided always that if any person be charged with any misconduct in any matter relating to the administration of the laws for the relief of the poor, and if any such special inquiry as aforesaid be directed to be made into such charge, the person bringing such charge shall be entitled to make the same at such inquiry by his counsel or attorney, and the person charged with such misconduct shall be entitled to make his defence at such inquiry by his counsel or attorney; but nothing herein contained shall release any person charged with any misconduct, or bringing any charge of misconduct from the liability to be himself examined at any such inquiry in respect of the matter of such charge, in the same manner and subject to the same penalties as under the said firstly-recited Act. In special inquiries on charges of misconduct, the parties may be heard by counsel, &c.

[Sect. 3. *General rules not to be altered by particular rules without consent of Secretary of State:* Repealed by the S. L. R. Act (No. 2), 1874, its provisions being replaced by 10 & 11 Vict. c. 109, s. 15.]

IV. Every order of the said commissioners suspending or dismissing any paid officer from the exercise of his office, in which Time of operation of certain

* Throughout this Act now read "Local Government Board" for "Poor Law Commissioners" (34 & 35 Vict. c. 70).

The liability to be examined upon charges of misconduct was imposed by sect. 12 of 4 & 5 Will. 4, c. 76 (now repealed). Penalties are imposed for various offences by sects. 92, 93, 95, 97—99 of that Act. Sect. 2. Note.

By 4 & 5 Will. 4, c. 76, s. 20, poor law orders do not come into force until fourteen days after being sent to overseers or guardians. Sect. 4. Note.

Sect. 4. rules and orders in cases of urgency.

the said commissioners shall declare that the urgency of the case requires that such order shall take effect within the period of fourteen days, shall come into force at such time as the said commissioners shall in such order direct, notwithstanding that fourteen days shall not have expired since a written or printed copy of the same shall have been sent by the said commissioners, as required by the first-recited Act.

Guardians, &c. may set occasional poor to work, &c.

V. It shall be lawful for the guardians of any parish or union, subject always to the powers of the Poor Law Commissioners, to prescribe a task of work to be done by any person relieved in any workhouse, in return for the food and lodging afforded to such person; but it shall not be lawful to detain any person against his will for the performance of such task of work for any time exceeding four hours from the hour of breakfast in the morning succeeding the admission of such person into the workhouse; and if any such person, while in such workhouse, refuse or neglect to perform such task of work suited to his age, strength, and capacity, or wilfully destroy or injure his own clothes, or damage any of the property of the board of guardians, he shall be deemed an idle and disorderly person within the meaning of an Act passed in the fifth year of the reign of King George the Fourth, intituled, "An Act for the punishment of idle and disorderly Persons, and Rogues and Vagabonds, in that part of Great Britain called England."

Penalty for not doing work, &c.

5 Geo. 4, c. 83.

[Sect. 6. *The guardians to have like powers as overseers with regard to lunatics.*]

Where a parish is more than four miles from

VII. Whenever the whole of any parish or parishes is situated at a greater distance than four miles from the place of meeting of the board of guardians of the union of which such parish or

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Sect. 5. Note.

The provisions of this section, so far as applicable to the discharge of casual paupers, are considerably altered by the Casual Poor Act, 1882 (45 & 46 Vict. c. 36), s. 4, which repeals and takes the place of sect. 5 of the Pauper Inmates Discharge and Regulation Act, 1871 (34 & 35 Vict. c. 108), and, by sect. 11 of the Act of 1871, is to take effect notwithstanding the provision contained in this section limiting the time for which paupers may be detained for the performance of a task of work.

As to punishing paupers for refusing to perform a task of work see the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 2; the Poor Relief Act, 1815 (55 Geo. 3, c. 137), s. 5; the Poor Law Amendment Act, 1856 (29 & 30 Vict. c. 113), s. 15; and the Pauper Inmates Discharge and Regulation Act, 1871 (34 & 35 Vict. c. 108), s. 7, which last-mentioned enactment also provides for the punishment of any casual pauper destroying or injuring his clothes or the property of the guardians.

Sect. 6. Note

Repealed by the S. L. R. Act (No. 2), 1874. The powers of guardians with regard to lunatics are now regulated by the Lunacy Act, 1890 (53 & 54 Vict. c. 5).

parishes may form part, it shall be lawful for the commissioners, on the application of the board of guardians, to form such parish or parishes into a district, and to direct the said guardians from time to time to appoint a committee of their members to receive applications of poor persons requiring relief in such district, to examine into the cases of such poor persons, and to report to the said guardians thereon.

Sect. 7. place of meeting of guardians it may be formed into a district for purposes of relief.

[Sect. 8. *Determination of disputes as to the election, &c., of guardians.*]

IX. If any person put in nomination for the office of guardian tender to the officer conducting the election of guardians his refusal in writing to serve such office, the election of guardians, so far as regards such person, shall be no further proceeded with.

Resignation of candidates.

X. In every case in which no person shall be elected for the office of guardian in any parish at any annual election of guardians, the persons elected for the previous year may continue to act as guardians until the next annual election.

Continuance of guardians in office.

XI. The said commissioners may accept the resignation of any person elected as a guardian tendered for any cause which the commissioners may deem reasonable; *and in every case of omission to elect, or of vacancy in any board of guardians, by death, resignation, or disqualification, the said commissioners*

Commissioners may accept resignation of any guardian; and may order new elections.

Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89. Now, by sect. 48 (3) of that Act, the election of guardians must be questioned by election petition in the manner provided by Part IV. of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), and adapted by the Local Government Orders of January 1st, 1898, and January 21st, 1898, mentioned in note to sect. 9, *infra*.

Sect. 8. Note.

This section is in effect repealed. By sect. 89 of the Local Government Act, 1894, so much of any Act as is inconsistent with that Act is repealed; and by sect. 20 (5) of that Act the election of guardians is to be conducted according to rules framed by the Local Government Board. The rules so framed prescribe that any candidate nominated for election may withdraw his candidature by delivering, or causing to be delivered, at the office of the returning officer, a notice in writing of such withdrawal signed by him not later than the second Tuesday after notice has been given of the election. The withdrawal of a candidate must, therefore, now be made in accordance with this rule, and not in accordance with the above section. See Guardians (outside London) Election Order, January 1st, 1898; Rural District Councillors Election Order, January 1st, 1898; Guardians (London) Election Order, January 21st, 1898.

Sect. 9. Note.

The words in italics are repealed by the Local Government Act 1894 (56 & 57 Vict. c. 73), s. 89, and the provision substituted therefor will be found in sect. 48 (4) of that Act.

Sect. 11. Note.

Sect. 11. *shall be and shall be deemed to have been empowered to order a new election for the completion of such board.*

In case of vacancy, remaining guardians to act.

XII. In case the full number of guardians shall not be or shall not have been elected at any election of guardians, or in case of any vacancy in any board of guardians by the death, removal, resignation, refusal, or disqualification to act of any elected guardian, the other or remaining members of the said board, *being not less than three*, shall be and be deemed to have been competent to act until the next election, or until the completion of the said board, as if the number of such board were complete; and no acts or proceedings shall be liable to be questioned on account of any failure to elect any guardian or guardians, or on account of any vacancy as aforesaid.

Defect in qualification &c. of a guardian, not to vitiate proceedings of board.

XIII. No defect in the qualification or election of any person acting as a guardian at a board of guardians, the majority of persons assembled at which shall be entitled to act as guardians, shall be deemed to vitiate or make void any proceedings of such board in which he may have taken part.

Paid officers and others

XIV. No person, during the time for which he may serve or hold the office of assistant overseer of any parish, nor any

Sect. 12. Note.

It is probable that the words in this section "being not less than three" should be now read as "being not less than one-third of the full number of members." By sect. 59 of the Local Government Act, 1894, the first schedule of the Public Health Act, 1875, is made applicable to boards of guardians; and by sect. 89 of the Local Government Act, 1894, so much of any other Act as is inconsistent with the provisions of that Act is repealed. Rule 2 of the first schedule of the Public Health Act, 1875, provides that no business shall be transacted at any meeting of guardians unless at least one-third of the full number of guardians be present thereat, provided that a larger quorum than seven members shall not be required. In cases, therefore, where one-third of the full number of guardians exceeds three, this provision seems to be inconsistent with that of this section with respect to the minimum number of guardians, and this section must therefore be deemed to that extent to be repealed (see *Newhaven Local Board* v. *Newhaven School Board*, 30 Ch. D. 350; 53 L. T. 571; 34 W. R. 172).

Sect. 13. Note.

A board of guardians was held competent to act although no election had been held for one of the townships included in the union (*Reg.* v. *Todmorden*, 1 Q. B. 185; 11 L. J. M. C. 129; and see *Newhaven Local Board* v. *Newhaven School Board*, *supra*, where the proceedings of a local board were held not to be vitiated by the fact that all the members except two had been improperly elected).

Sect. 14. Note.

The first-recited Act is 4 & 5 Will. 4, c. 76. For other disqualifications for being guardians, see the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46 (1).

"Officer" is defined in 4 & 5 Will. 4, c. 76, s. 109.

A clerk to a highway district board including several parishes of

paid officer engaged in the administration of the laws for relief of the poor, nor any person who, having been a paid officer, shall have been dismissed within five years previously from such office, under the provisions of the said first-recited Act, shall be capable of serving as a guardian; and no person receiving any fixed salary or emolument from the poor rates in any parish or union shall be capable of serving as a guardian in such parish or union.

Sect. 14. incapable of serving as guardians.

[Sect. 15. *Ex-officio guardians not incompetent to act as justices.*]

XVI. It shall be lawful for every board of guardians constituted under the said first-recited Act to accept, take, and hold, on behalf of the union or parish respectively for which they may act, any lands, buildings, goods, effects, or other property as a corporation, and in all cases to sue and be sued in their corporate name.

Corporate powers of board of guardians.

XVII. Wherever a board of guardians is empowered to make any order, or to prefer any complaint, claim, or application, before justices or otherwise, if any such board resolve to make

Mode of making order or application to justices, &c. by boards of guardians.

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a union, at an annual salary payable out of a fund supplied from monies (some of which were poor rates and some not) levied under the authority of the Highway Act, 1864 (27 & 28 Vict. c. 101), s. 33, and a clerk to a school board, paid by salary out of a rate raised under the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), have been held not to be disqualified as persons receiving "a fixed salary or emolument from the poor rates," within the meaning of this section (*Reg.* v. *Rawlins; Reg.* v. *Dibdin*, 15 Q. B. D. 382; 54 L. J. Q. B. 557; 52 L. T. 436; 50 J. P. 5).

Sect. 14. Note.

Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89. By sect. 20 (1) of that Act *ex-officio* and nominated guardians were abolished.

Sect. 15. Note.

The first-recited Act is 4 & 5 Will. 4, c. 76. A similar enactment to that in this section is contained in the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 7.

Sect. 16. Note.

The form of the certificate of chargeability is prescribed in the schedule to the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), and by sect. 69 of that Act, as amplified by the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 11, is made evidence in all judicial proceedings.

"Officers" of guardians are defined in 4 & 5 Will. 4, c. 76, s. 109.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 68, clerks and officers of guardians may conduct proceedings before justices at petty sessions on behalf of boards of guardians, although they are not solicitors. Such new enactment was rendered necessary by the passing of the Solicitors Act, 1843 (6 & 7 Vict. c. 73), in the year after the passing of this Act.

Sect. 17. Note.

Sect. 17.

such order, or to prefer such complaint, claim, or application, a copy of the minute of such resolution, signed by the presiding chairman of such board, and sealed with their seal, and countersigned by their clerk or person acting as their clerk, shall be deemed and taken to be sufficient proof of the making of such order, or of the preferring of such complaint, claim, application, or otherwise, as the case may be; and whenever, either for the purpose of making an order for the removal of a pauper, or on the trial of an appeal against such order, or for any other purpose, it shall be necessary to prove to what parish a pauper has become chargeable (if in such parish the laws for the relief of the poor shall be administered by a board of guardians or a district board), a certificate of such pauper having so become chargeable, signed, sealed, and countersigned as aforesaid, shall be sufficient proof to what parish and at what time such pauper became and was chargeable, unless the contrary shall be proved by other legal evidence; and in all cases in which the guardians of any parish or union are or may hereafter be empowered to make any application or complaint, or to take any proceedings before any justices at petty or special or general or quarter sessions, it shall be lawful for any officer of such guardians empowered by any board of such guardians, by an order in writing, under the hand of the presiding chairman of such board, and sealed with the common seal of such guardians, to make such application or complaint, or to take such proceedings on behalf of such guardians, as effectually to all intents and purposes as if the same were made or taken by such guardians, or any of them, in person.

Mode of proving to what parish a pauper has become chargeable.

Guardians may authorize their officer to take legal proceedings.

Construction of Acts 4 & 5 Will. 4, c. 76. 5 & 6 Will. 4, c. 69. 6 & 7 Will. 4, c. 96.

XVIII. The said Act of the fifth year of the reign of His late Majesty, and the Act passed in the sixth year of the reign of his said Majesty, intituled "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations of Parishes in England and Wales," and the Act passed in the seventh year of the reign of His said Majesty, intituled "An Act to regulate Parochial Assessments" . . . and all Acts to amend or extend any of the said Acts, . . . and the present Act, shall (except so far as the provisions of any former Act shall be expressly altered or amended by the provisions of any subsequent Act) be construed as one Act; and in each and every such Act . . . the words "auditor," "guardian," "justice or justices of the peace," "oath," "officer," "overseer," "owner," "rack-rent," "parish," "person," "poor," "poor laws," "laws for relief of the poor," "poor rate," "general quarter sessions," "union," "united workhouse," "vestry," "workhouse," and words importing the singular number or the masculine gender only, shall be interpreted as is provided in the first-recited Act; and the provisions of

Provisons of 4 & 5 Will. 4,

Sect. 18.

Note.

The portions of this section which are omitted have been repealed by the S. L. R. Act (No. 2), 1874.

the said first-recited Act shall extend to every rule, order, or regulation directed or authorized to be made by the said commissioners under the provisions of an Act passed in the seventh year of His said late Majesty, intituled "An Act for registering Births, Deaths, and Marriages in England," . . .

Sect. 18.

c. 76, to extend to rules made under 6 & 7 Will. 4, c. 86.

XIX. . . . no part of this Act shall extend to Ireland.

Extent of Act.

[Sect. 20 and Schedule. Repealed by the S. L. R. Act (No. 2), 1874.]

PARISH CONSTABLES ACT, 1842.

5 & 6 VICT. CHAP. 109.

An Act for the Appointment and Payment of Parish Constables.
[12th August, 1842.]

[This statute is printed here on account of the duties which it imposes upon overseers.]

[*Preamble.*]

[I.] On some day after the twenty-fourth day of March and before the ninth day of April in each year, the justices of the peace of every county in England shall hold a special petty session of the peace in their several divisions for the appointment of parochial constables, of which session due notice shall be given to every justice usually acting in that division.

Justices to hold special sessions for appointing parochial constables.

II. The justices shall within the first seven days of February in each year, issue a precept, under the hands of any two of them, to the overseers of each parish within the division, requiring them to make out and return, before the twenty-fourth day of March in each year, a list in writing of a competent number of men within their respective parishes qualified and liable to serve as constables, and also to perform all other requisitions in the said precepts contained; and with the said precept shall be given notice to the said overseers of the time and place where such special session of the peace as aforesaid will be holden.

Justices to issue precepts to overseers, requiring lists of men qualified to serve as constables.

III. The overseers of every parish, upon the receipt of such precept, shall summon a meeting of the inhabitants in vestry

Overseers to make out lists

Notice of the holding of special sessions is to be given by the clerks to justices (Parish Constables Act, 1850 (13 & 14 Vict. c. 20), s. 4; and High Constables Act, 1869 (32 & 33 Vict. c. 47), s. 3).

Sect. 1. Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 6 (1), 19 (4), the duty of the vestry under this section in a rural parish is transferred to the parish council or the parish meeting.

In a parish under the Vestries Act, 1850 (13 & 14 Vict. c. 57),

Sect. 3. Note.

Sect. 3.

of persons qualified to serve.

to be holden within fourteen days after the receipt of the said precept; and the vestry at such meeting shall make out a list in writing of such number as shall be named in the precept of men residing within their parish who shall be qualified and liable to serve as constables, with the Christian name and surname, and with the true place of abode, the title, quality, calling, or business of each, written at full length: Provided also, that it shall be lawful for the vestry to annex to the said return the names of any number of men willing to serve the office of constable, and whom the vestry will recommend to be appointed, although not having the qualification herein-after mentioned.

Parishes and extra-parochial places may be annexed to any adjoining parish.

IV. It shall be lawful for the justices at a special petty session of the peace to be holden for that purpose, at any convenient time before the issuing of such precept as aforesaid (of which last-mentioned session due notice shall be given to every justice usually acting within the division), to make an order for uniting any parish or parishes, whenever they shall think it expedient, to any parish adjoining thereto, or for the annexing of any extra-parochial places to any parish adjoining thereto for the purposes of this Act; and a copy of such order shall be served on the overseers of every parish so united, and also on the overseers of such adjoining parish and every such extra-parochial place so annexed, with the precept herein-before mentioned; and every such parish or extra-parochial place so united to any adjoining parish shall thenceforward be deemed, for all the purposes of this Act, to be a part of such adjoining parish; and the inhabitants thereof shall be entitled to attend and vote at any meeting in vestry for the purposes of this Act of the inhabitants of the parish to which such parish is united, as fully as if they were inhabitants of the parish where such meeting is holden.

Who qualified to be constables.

V. Every able-bodied man resident within the said parish, between the ages of twenty-five years and fifty-five years, rated to the relief of the poor, or to the county rate, on any tenements of the net yearly value of four pounds or upwards, except such persons as shall be exempt or disqualified as herein-after mentioned, shall be qualified and liable to serve as constable of that parish.

Sect. 3.

Note.

it will be the duty of the vestry clerk to return the list. (See sect. 7 of that Act.)

It was held in 1858 that the justices have a discretion under sect. 2 of this Act whether or not they will issue their precept; but if they do, and the overseers summon a vestry meeting, the inhabitants are bound to make out the list as provided in this section, and if they decline to do so, a *mandamus* will issue to compel them to make out and return the list (*Reg.* v. *North Brierly*, E. B. & E. 519; 27 L. J. M. C. 275; 31 L. T. 179; 4 Jur. (N. S.) 784; 23 J. P. 133).

Sect. 6.

Exemptions from serving as constables.

VI. All peers; all members returned to serve in the Commons House of Parliament; all judges of Her Majesty's Courts of Record at Westminster; all justices of the peace; all deputy-lieutenants; all clergymen in holy orders; all priests of the Roman Catholic faith who shall have duly taken and subscribed the oaths and declarations required by law; all persons who shall teach or preach in any congregation of Protestant dissenters whose place of meeting is duly registered, and who shall follow no secular occupation, except that of a schoolmaster, producing a certificate of some justice of the peace of their having taken the oaths and subscribed the declaration required by law; all schoolmasters; all sergeants and barristers-at-law actually practising; all members of the society of doctors of law and advocates of the civil law actually practising; all attornies, solicitors, and proctors duly admitted in any court of law or equity, or of ecclesiastical or admiralty jurisdiction, in which attornies, solicitors, and proctors have usually been admitted, actually practising, and having duly taken out their annual certificates; all conveyancers and special pleaders below the bar; all officers of any such courts actually exercising the duties of their respective offices; all coroners, gaolers, and keepers of houses of correction; all members and licentiates of the Royal College of Physicians in London actually practising; all surgeons, being members of one of the Royal Colleges of Surgeons in London, Edinburgh, or Dublin, and actually practising; all apothecaries, having obtained a certificate to practise as an apothecary from the Master, Wardens, and Society of Apothecaries of the city of London, and actually practising; all officers in Her Majesty's navy or army on full pay; all persons enrolled and serving in any corps of yeomanry under officers having commissions from Her Majesty, or lieutenants of counties, or others specially authorized by Her Majesty for that purpose; all pilots licensed by the Trinity House of Deptford Strond, Kingston-upon-Hull, or Newcastle-upon-Tyne, and all masters of vessels in the buoy and light service employed by either of those corporations; and all pilots licensed by the Lord Warden of the Cinque Ports, or under any Act of Parliament or charter for the regulation of pilots in any other port; all the household servants of Her Majesty; all officers of customs and excise; all sheriffs and sheriffs' officers; all high constables; the clerks of all boards of guardians of the poor, established under the Act for the amendment and better administration of the laws relating to the poor in England and Wales; the masters of all union workhouses; all county or district constables; all parish clerks; all registrars and superintendent registrars of births, deaths, and marriages; all

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Sect. 6. Note.

Postmasters and persons employed in the business of the Post Office are exempted by the Parish Constables Act, 1850 (13 & 14 Vict. c. 20), s. 5.

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churchwardens, overseers, and relieving officers; shall be freed and exempt from serving the office of constable under this Act.

Disqualifications from serving as constables.

VII. All licensed victuallers and persons licensed to deal in any exciseable liquors or to sell beer by retail, all gamekeepers, and all persons who have been attainted of any treason or felony, or convicted of any infamous crime, shall be disqualified from serving the office of constable under this Act.

Lists to be fixed on church doors and also kept by overseers for inspection, &c.

VIII. The overseers of each parish shall make out true copies of the list so agreed to in vestry; and where any of the persons named in the said list shall have been chosen to serve, and shall have served, the office of constable in the said parish, in person or by substitute, the overseers shall set against his name in the list the date of the year of such service, and shall, on the first three Sundays in the month of March in each year, fix a true copy of such list upon the principal door of every church, chapel, and other public place of religious worship within their parish, having first subjoined to every such copy a notice, stating that all objections to the list will be heard by the justices of the peace at a time and place to be mentioned in such notice, and having also signed their names at the foot of such copy, and shall likewise keep the original list, or a true copy thereof, to be perused by any of the inhabitants of their parish at any reasonable time during the first three weeks of the month of March in each year, without any fee or reward, and on or before the day limited for making their return shall sign and return the original list to the justices as required by the precept.

Penalty on overseers for neglecting returns, or making false returns.

IX. Every overseer who shall neglect or refuse to sign and return such list, or to make out, sign, and publish such true copies as aforesaid, or who shall knowingly leave out the name of any person who ought to be included therein, or who shall knowingly make a false return of any particular which ought to be comprised therein, shall, upon conviction thereof before two justices of the peace, forfeit and pay for every such offence a sum not more than five pounds.

Overseers to attend the special session, &c.

X. The overseers of each parish shall attend the special session of the peace to be holden for the appointment of constables in their parish, and shall then and there verify the list so returned by them, and shall answer on oath such questions touching the same as shall be put to them, or any of them, by the justices then present; and if any man not qualified and liable to serve as constable as aforesaid is inserted in any such list, it shall be

Lists to be corrected and allowed by justices.

Sect. 7.

Note.

Masters of workhouses and relieving officers are disqualified from serving the office of constable unless authorized by the Local Government Board to hold a paid office in a parish (Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 6).

lawful for the said justices, upon being satisfied by the oath of the party complaining, or upon other proof, or upon their own knowledge, that he is not qualified and liable to serve as constable, to strike his name out of such list, and also to strike thereout the names of men disabled by lunacy or imbecility of mind, or by deafness, blindness, or other infirmity of body, from serving as constable; and when every such list shall be duly corrected at such session, or at such adjournment thereof, it shall be allowed by the justices present, or two of them at such session, or such adjournment, who shall sign the same, with their allowance thereof. Sect. 10.

XI. When any list shall have been allowed, the justices shall choose from the allowed list the names . . . of persons . . . to act as constables within the parish during the year then next following, and until other constables shall be chosen and sworn to act in their stead as constables for such parish: Provided always, that where any person shall have been chosen to serve, and shall have served, the office of constable either in person or by substitute, . . . he shall not be liable to be again chosen until every other person in the parish liable and qualified to serve shall have also served the office of constable, either in person or by substitute. Justices to choose constables.

[Sects. 12, 13. Repealed by 35 & 36 Vict. c. 92, s. 3.]

XIV. Within fourteen days after the appointment . . . of such constables, the clerk to the justices shall send to every justice usually acting within the division, and also to the clerk of the peace, for the purpose of being laid before the next court of general or quarter sessions, a list containing the names of all constables so appointed in the division, and the parishes for which they have been appointed; and the overseers of the poor shall affix to the door of their respective parish churches a list of the names of the constables appointed in their respective parishes. Lists of constables appointed in the division to be sent to justices, &c. and parish lists to be affixed to the church doors.

XV. The said constables shall have within the whole county, and also within all liberties and franchises and detached parts of other counties situated therein, and also in every county adjoining to the county in which they are appointed, all the powers, privileges, and immunities, and shall be liable to all the duties and responsibilities, of a constable within his constablewick, but shall not be bound to act as a constable beyond the parish for which they are severally appointed and sworn, without the special warrant of a justice of the peace: . . . Powers, &c. of constables.

XVI. In case of the death or disqualification of any constable during his year of office, of which the overseers shall forthwith Provision in case of vacancies during the year, &c.

Extended by the Parish Constables Act, 1850 (13 & 14 Vict. c. 20), s. 1. Sect. 16. Note.

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give notice to a justice of the peace usually acting for the division, or in case any person who shall have been chosen constable shall refuse or neglect as aforesaid to attend and be sworn, or to find a qualified substitute to be sworn in his stead, and shall have been fined for such refusal or neglect, the person who has last served, and shall not then be disqualified or exempt, shall be bound to act in his stead until another constable shall be appointed and sworn to act for the remainder of the year, which shall be done at the next petty session of the peace for the division, of which notice shall be given to all the justices usually acting for the division ; and in case the constable making the vacancy was serving as substitute for some other person, the justices shall summon the person originally chosen to attend and be sworn, or to find another substitute duly qualified to serve for the remainder of the year; or if the person originally chosen shall be then disqualified, or shall have refused or neglected as aforesaid to attend and be sworn, or to find a substitute, or if the constable making the vacancy was serving after having been chosen, and not as a substitute, the justices at such session shall choose another qualified person, out of the allowed list then in force, to serve the office of constable during the remainder of the year, and shall proceed in all respects as in the original appointment of constables for that year ; and the person so chosen shall be bound in like manner, and subject to the same penalty, to attend and be sworn, or to find a substitute to be sworn in his stead to serve for the remainder of the year; and if less than two hundred days shall have elapsed since the first appointment of constables for that year, but not otherwise, the service of the person appointed to act for the remainder of the year shall be reckoned to him as service for that year ; . . .

Fees and allowances.

XVII. The justices of the county in general or quarter session assembled shall from time to time, subject to the approval of one of Her Majesty's principal Secretaries of State, settle tables of fees and allowances to the clerks to the justices for the performance of their duties under this Act, and to the constables for the service of summons and execution of warrants, and for the performance of such other occasional duties which may be required of the said constables, for which the said justices shall think that fees ought to be allowed ; and whenever any duty for which any such fee or allowance shall have been settled, and for which the payment is not by law charged upon the county rates, shall have been performed by any clerk or by any constable appointed under this Act, the amount of the fee or allowance shall be paid by the overseers of the parish in respect of which such fee has become payable out of any

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Sect. 17.

Note.

By the Parish Constables Act, 1850 (13 & 14 Vict. c. 20), s. 2, fees and allowances settled as provided by this section are to be paid to constables for the performance of any order of a justice made in writing, or for the performance of occasional duties.

monies in their hands collected for the relief of the poor, upon the order of the justices in petty session assembled for the division, and under such regulations as shall be made from time to time by the justices in general or quarter session assembled, subject to the approval of the Secretary of State. Sect. 17.

[Sects. 18—20. Repealed by the S. L. R. Act (No. 2), 1874.]

Constables not to be appointed in courts leet, &c.

XXI. No petty constable, headborough, borsholder, tithingman, or peace officer of the like description under any name of office, shall be appointed for any parish, township, or vill within the limits of this Act, except for the performance of duties unconnected with the preservation of the peace or with the execution of this Act, at any court leet or torn, or otherwise than under the provisions of this Act, or under the provisions of the said Act of the third year of the reign of Her present Majesty, or of some Act passed for the amendment thereof; but nothing herein contained shall be taken to prevent the appointment of special constables, or to apply to the city of London or the metropolitan police district, or to any borough which is within the provisions of an Act passed in the sixth year of the reign of His late Majesty, intituled "An Act to provide for the regulation of Municipal Corporations in England and Wales," or of any charter granted in pursuance of that Act, or of any Act made for the amendment thereof, or to any parish, town, or place in which rates are or shall be levied for the payment of constables, under the provisions of an Act passed in the fourth year of the reign of His late Majesty, making provision for the lighting and watching of parishes in England and Wales, or of any local Act specially applying to such parish, town, or place, and nothing herein-before contained shall be taken to apply to the county palatine of Chester.

2 & 3 Vict. c. 93.

Act not to affect special constables, or the city of London, &c. or boroughs within 5 & 6 Will. 4, c. 76, or 3 & 4 Will. 4, c. 90, &c.

Lock-up houses and strong rooms to be provided.

XXII. It shall be lawful for the justices of the peace of any county in general or quarter sessions assembled, if they shall think fit, to order that lock-up houses for the temporary confinement of persons taken into custody by any constable, and not yet committed for trial, or in execution of any sentence, shall be provided in such places within their county as the said justices shall think fit; and for that purpose to purchase and hold lands and tenements, or to appropriate to that purpose any lands and tenements belonging to the county which are not needed for the purpose to which they were applied or intended to be applied before such appropriation; or, instead of providing new lock-up houses, to order that the lock-up houses, strong rooms, or cages belonging to any parish, be appropriated for the purpose of this Act, and if necessary be enlarged or improved; and the expense of building, hiring, or otherwise providing, repairing, and furnishing such lock-up houses shall be defrayed out of the county rates: Provided always, that notice

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of the day and hour at which any business relates to providing, enlarging, or improving any such lock-up house will begin at such session, shall be given by the clerk of the peace, with the notice of holding the session, on the requisition of any five justices acting for such county; and that no such lock-up house shall be built or otherwise provided, enlarged, or improved, except upon such plan as shall be approved by one of Her Majesty's principal Secretaries of State: Provided also, that every such lock-up house shall be within the inspection of the inspectors of prisons.

[Sect. 23. Repealed by 13 & 14 Vict. c. 20, s. 6.]

[Sect. 24. Repealed by 47 & 48 Vict. c. 43.]

Application of penalties.

XXV. All penalties levied under this Act shall be applied in aid of the poor rates of the parish in which the offence shall have been committed for which such penalties shall be levied.

Interpretation of terms.

XXVI. In this Act the word "county" shall be taken to extend to every riding or division of a county for which there is a separate court of general or quarter sessions of peace; and the word "parish" shall be taken to extend to every township or other district maintaining its own poor, and also to every extra-parochial place which shall not be annexed to an adjoining parish, for which places the justices in petty sessions assembled shall be empowered to appoint persons to act as overseers; and the word "overseers" shall be taken to extend to all persons charged with collecting rates for the relief of the poor in any parish, and, in extra-parochial places not added to any adjoining parish, to the persons appointed by the justices as aforesaid.

[Sect. 27. Repealed by the S. L. R. Act (No. 2), 1874.]

PARLIAMENTARY REGISTRATION ACT, 1843.

6 & 7 VICT. CHAP. 18.*

An Act to amend the Law for the Registration of Persons entitled to Vote, and to define certain Rights of Voting, and to regulate certain Proceedings in the Election of Members to serve in Parliament for England and Wales.

[31st May, 1843.]

[This Act imposes duties upon overseers in respect of the registration of voters. So much only of the Act is here printed

* This Act applies to parliamentary counties in like manner as to parliamentary boroughs (48 Vict. c. 15. s. 1).

or annotated as has reference either to the poor law or to such duties of overseers or appears necessary for understanding the sections relating to those matters.]

[Preamble recited 2 & 3 Will. 4, c. 45.]

[Sect. 1. *Repealing the provisions of* 2 & 3 Will. 4, c. 45, *as to registration:* Repealed by the S. L. R. Act, 1874.]

Sect. 1.

II. This Act shall . . . be taken to be part of the said Act as fully as if it were incorporated therewith.

This Act to be taken as part of recited Act.

III. And whereas, for the purpose of forming a register of all persons entitled to vote in the election of a knight or knights of the shire to serve in Parliament, it is expedient that lists should annually be made out in manner herein-after mentioned: Be it therefore enacted, that the clerk of the peace for every county shall cause a sufficient number of forms of precepts, notices, and lists to be printed, . . . and shall also, *on or before the tenth day of June* in every year, make and cause to be delivered to the overseers of the poor of every parish and township within his county his precept, . . . together with a sufficient number of the said printed forms of notices and lists, and of the copies of such part of the register of voters then in force for such county as shall relate to such parish or township respectively, . . . for the purposes herein-after mentioned.

Clerk of the peace shall have forms of precepts, &c. printed;

and shall annually issue his precepts, with forms of notices, &c. to overseers.

IV. The overseers of the poor of every parish and township shall, on or before the twentieth day of June in every year, publish a notice, . . . having first signed the same, requiring all

Overseers to give notice annually, requiring

Sect. 3.

References in this section to forms and tables in schedule (D.) are repealed by 48 & 49 Vict. c. 15, s. 17, and the S. L. R. Act, 1891. (See now Registration Order, 1895.)

Note.

The words in italics are repealed by the S. L. R. Act, 1891, and the period between April 5th and 15th substituted therefor by 48 & 49 Vict. c. 15, s. 7 (1).

Sect. 4.

References in this section to form 2 in schedule (A.) are repealed by 48 & 49 Vict. c. 15, s. 17, and are replaced by the Registration Order, 1895, First Schedule, forms 1 and 2.

Note.

A parish was divided into four districts, popularly known as townships, but not so by law. There were four overseers of the parish, and the custom was for one of the overseers and an assistant overseer to undertake the exclusive management of one of these districts. In that capacity each of the overseers published a separate notice, signed by himself and the assistant overseer, requiring persons entitled to vote in respect of property situate within his township to send in their claims to him and the assistant overseer. A notice of claim addressed "to the overseers of the township of A.," and served on the overseer acting for that district, was in these circumstances held sufficient (*Elliott* v. *St. Mary*

Sect. 4.

voters to send in their claims.

persons entitled to vote in the election of a knight or knights of the shire to serve in Parliament in respect of any property situate wholly or in part within such parish or township who shall not be upon the register of voters then in force, and also all persons so entitled as aforesaid, who being upon such register shall not retain the same qualification or continue in the same place of abode as described in such register, and who are desirous to have their names inserted in the register about to be made, to give or send to the said overseers, on or before the twentieth day of July then next ensuing, a notice in writing, by them signed, of their claim to vote as aforesaid; and every such person, and any person who being upon such register may be desirous to make a new claim, shall, on or before the said twentieth day of July, deliver or send to the said overseers a notice signed by him of his claim . . .

Overseers to prepare lists of claimants.

V. The overseers of the poor of every parish and township respectively shall on or before the last day of July in every year make out . . . an alphabetical list of all persons who on or before the twentieth day of July then next preceding shall have claimed as aforesaid; and in every such list the Christian name and surname of every claimant, with the place of his abode, the nature of his qualification, and the local or other description of the property, and the name of the occupying tenant thereof, shall be written as the same are stated in the claim; and the said overseers, if they shall have reasonable cause to believe that any person whose name shall appear in such list of claimants, or in the copy of the register relating to their parish or township, and received by them from the clerk

Overseers empowered to object to any name;

Sect. 4. Note.

Within, Carlisle, 4 C. B. 76; 16 L. J. C. P. 101; 8 L. T. 343; 11 Jur. 69).

When July 20th falls on a Sunday, service of the notice of claim upon an overseer by leaving it at his place of abode on that day is sufficient (*Rawlins* v. *West Derby Overseers*, 2 C. B. 72; 15 L. J. C. P. 70; 10 Jur. 268).

If a notice of claim in respect of an ownership qualification is not signed personally by the claimant, but by another at his request, the overseers may nevertheless receive it and insert the name of the claimant in the list of ownership claimants (*Davies* v. *Hopkins*, 3 C. B. (N. S.) 376; 27 L. J. C. P. 6; 30 L. T. 152; 4 Jur. (N. S.) 690; 6 W. R. 68).

Although a notice of claim in respect of an ownership qualification is not in fact given or sent to the overseers until after July 20th, the overseers may nevertheless receive it and insert the name of the claimant in the list of ownership claimants (*Leonard* v. *Alloways*, 48 L. J. C. P. 81; 40 L. T. 197; 43 J. P. 255).

Sect. 5. Note.

A reference to form 3 of schedule (A.) in this section is repealed by 48 & 49 Vict. c. 15, s. 17, and is replaced by the Registration Order, 1895, First Schedule, form 3.

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of the peace, is not entitled to have his name upon the register then next to be made, shall add the word "objected" before the name of every such person on the margin of such list of claimants or the said copy of register; and the said overseers shall also add the word "dead" before the name of any person in the said copy of the register whom they shall have reasonable cause to believe to be dead; and the overseers shall cause a sufficient number of copies of such list of claimants, and of the said copy of the register, with all such marginal additions as aforesaid, to be written or printed, and shall on or before the first day of August sign and publish the same; and the said overseers shall likewise keep a copy of such list of claimants, and of the said copy of the register, with the marginal additions respectively as aforesaid, signed by them, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after the same shall have been published, and shall deliver written or printed copies thereof, signed by them, to all persons applying for the same, on payment of a price for each copy after the rate contained in the table numbered (1) in the schedule (D.) to this Act annexed.

to add the word "dead" against any name;
to publish copies of list of claimants, and of the part of the register of voters relating to their own parish;
to keep copies of same for inspection and sale.

VI. The list of claimants (if any) so to be made out by the overseers of every parish or township, together with the said copy of the register, with the marginal additions respectively as aforesaid, for the time being, relating to the same parish or township, shall be deemed to be the list of voters of such parish or township for the county within which such parish or township may be situate, for the purposes herein-after mentioned.

The lists of claimants in any parish, and the part of the register relating to that parish, to be deemed the list of voters of such parish.

VII. In every year every person who shall be upon the register for the time being for any county may object to any

Any person on the register may object to

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Note.

References to forms 4 and 5 of schedule (A.) in this section are repealed by 48 & 49 Vict. c. 18, s. 17, and are replaced by the Registration Order, 1895, First Schedule, forms 4, 5.

For "last day in July" is now substituted "15th day of July" (41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12). And for "twenty-fifth day of August" is substituted "twentieth day of August" (48 & 49 Vict. c. 15, s. 3(1)).

By the County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 6, notice of objection to persons on the list of claimants may be given as provided in this section, but notices of objection other than notices to overseers shall specify grounds of objection.

Any person upon the list at the time when the notice of objection is served may object, although he is himself struck off the list before the objection is heard (*Pease* v. *Middlesborough, Town Clerk of*, [1893] 1 Q. B. 127).

It is sufficient that the names objected to should be scheduled at

Sect. 7.

any other person named in the list as not entitled to be upon it.

Notice of objection to be given to the overseers;

and also to the party objected to;

other person upon any list of voters for such county as not having been entitled, on *the last day of July* then next preceding, to have his name inserted in any list of voters for such county; and every person so objecting (save and except overseers objecting in the manner herein-before mentioned) shall, on or before the *twenty-fifth day* of August in such year, give or cause to be given to the overseers of the poor of the parish or township to which the list of voters containing the name of the person so objected to may relate, a notice . . . ; and the person so objecting shall also, on or before the said *twenty-fifth day* of August, give or cause to be given to the person so objected to, or leave or cause to be left at his place of abode, as described in such list, a notice . . . ; and every such notice of objection shall be signed by the party so objecting as aforesaid; and wherever the place of abode of the person objected to, as described in the said list, shall not be in the parish or township to which such list may relate, and the name of the occupying tenant of the whole or any part of the qualifying property, together with his place of abode, shall appear in such list, the person so objecting shall also, on or before the same day, give to or leave, or cause to be given or left, at the place of abode of any such occupying tenant, a duplicate notice, signed as aforesaid.

and to the occupier of the qualifying property, if the person objected to is not resident in the parish.

List of persons objected to to be published.

VIII. The said overseers shall in every year include the names of all persons against whom notice of objection shall have been given to them as aforesaid in that year in a list, . . . and shall publish such list on or before *the first day of September* in such year, and shall also keep a copy of such list, to be perused by any person without payment of any fee, at any time

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Sect. 7. Note.

the foot of the notice (*Smith* v. *Holloway*, L. R. 1 C. P. 145; 35 L. J. C. P. 100; 13 L. T. (N. S.) 468; 12 Jur. (N. S.) 164; 14 W. R. 202; 29 J. P. 823).

It makes no difference that the signature of the objector precedes the names of the persons objected to, instead of being placed after them as in the prescribed form of objection (*Sutton* v. *Wade*, [1891] 1 Q. B. 269; 60 L. J. Q. B. 28; 63 L. T. 588; 39 W. R. 223; 55 J. P. 342).

The overseers have no right to waive the giving to them of a proper notice of objection in exact accordance with the requirements of the Act (*Freeman* v. *Newman*, 12 Q. B. D. 373; 53 L. J. Q. B. 108; 51 L. T. 396; 32 W. R. 246; *Barton* v. *Ashley*, 2 C. B. 4; 15 L. J. C. P. 36).

Sect. 8. Note.

A reference to form 6 of schedule (A.) in this section was repealed by 48 & 49 Vict. c. 15, s. 17, and is replaced by the Registration Order, 1895, First Schedule, form 6.

For the words in italics now read "twenty-fifth day of August" and "after the said twenty-fifth day of August" respectively (48 & 49 Vict. c. 15, s. 3 (2)).

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between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday, during the first fourteen days *of the said month of September*, and shall deliver a copy of such list to any person requiring the same on payment of a price for each copy after the rate contained in the table numbered (1) in the schedule (D.) to this Act annexed.

Overseers to keep copies for inspection and sale.

IX. On or before the *twenty-ninth day of August* in every year the overseers of every parish or township shall deliver to the clerk of the peace of the county wherein the said parish or township is situate the said copy of the register, and the said list of claimants, with the marginal additions respectively as aforesaid, and also a copy of the list of persons objected to, respectively signed as aforesaid, and relating to their parish or township.

Lists, &c. to be delivered to the clerk of the peace.

X. And for the purpose of preparing like lists, and forming a register of all persons entitled to vote in the election of a member or members to serve in Parliament for any city or borough, the town clerk of every such city or borough shall cause a sufficient number of forms of precepts, notices, and lists to be printed, . . . and shall *on or before the tenth day of June* in every year make, and cause to be delivered to the overseers of the poor of every parish or township situate wholly or in part within such city or borough, or within any place sharing in the election for such city or borough, his precept . . . and also a sufficient number of the said printed forms of notices and lists, and of the said table.

Town clerk in every borough to have forms of precepts, &c. printed;

To issue his precept, with forms of notices, &c. to the overseers.

XI. The overseers of every such parish or township shall, on or before the twentieth day of June in every year, publish a notice in writing stating that no person will be entitled to have his name inserted in any list of voters for the city or

Overseers to give public notice as to the payment of rates and

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Sect. 9.

For "twenty-ninth day of August" now read "twenty-fifth day of August" (48 & 49 Vict. c. 15), s. 3 (2).

Note.

Sect. 10.

References in this section to forms in schedule (B.) and schedule (D.) are replaced by forms in the Registration Order, 1895. For "on or before the tenth day of June" now read "on or within seven days before the fifteenth April" (48 & 49 Vict. c. 15, s. 7).

Note.

Sect. 11.

A reference in this section to form 2 in schedule (B.) is replaced by form B. in the Third Schedule of the Registration Order, 1895.

Note.

For "the sixth day of April" now read "the fifth day of January" (11 & 12 Vict. c. 90). By the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 10, this section, with amendments, is extended to municipal voters in boroughs municipal as well as parliamentary.

Where parishes have been grouped together for ecclesiastical purposes only, and have one church not situate within the parish for which the overseers act, the notices published by such overseers

Sect. 11.

taxes by occupiers of premises of the yearly value of 10*l*.

borough then next to be made in respect of the occupation of premises of the clear yearly value of not less than ten pounds, situate wholly or in part within such parish or township, unless he shall pay, on or before the twentieth day of July then next ensuing, all the poor's rates and assessed taxes which shall have become payable from him in respect of such premises during the twelve calendar months next before *the sixth day of April* then last past.

Overseers to have power of inspecting tax assessments, &c.

XII. The overseers of every parish or township, for their assistance in making out the list of voters as herein-after mentioned (upon request made by them or any of them, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday, during the month of July in every year, to any assessor or collector of taxes, or to any other officer having the custody of any tax assessment or duplicate for such parish or township), shall have free liberty to inspect any such tax assessment or duplicate, and to extract such particulars as may appear to such overseer or overseers to be necessary; and every such assessor or collector of taxes shall, within two days after the twentieth day of July in every year, make out and deliver to the said overseers a list containing the name and place of abode of every person who shall not have paid on or before the said twentieth day of July the assessed taxes which shall have become payable from him in respect of any premises within the said parish or township during the twelve calendar months next before the *sixth day of April* then last past; and the overseers shall keep the said list, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after the list of voters shall have been published, as herein-after mentioned.

Assessors or collectors of taxes to deliver to overseers a list of persons in arrear of taxes payable at April [January] last past.

Overseers to keep list for inspection.

Overseers to prepare and publish lists of persons entitled to

XIII. The overseers of every such parish or township shall, on or before the last day of July in every year, make out or cause to be made out, . . . an alphabetical list of all persons who may be entitled to vote in the election of a member or members

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Sect. 11. Note.

ought not to be posted up outside the church, but must be posted up in some conspicuous place within the parish for which such overseers act (*Hildreth* v. *Ingram*, 64 L. J. M. C. 57).

Sect. 12. Note.

For "the sixth day of April" now read "the fifth day of January" (11 & 12 Vict. c. 90).

Sect. 13. Note.

References in this section to forms (3) and (4) of schedule (B.) are replaced by forms (D.) No. 1 and (D.) No. 2 of the Third Schedule of the Registration Order, 1895.

This section is extended to old lodgers' claims by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 22.

Sect. 13.

vote as 10*l.* occupiers, and of all other persons (other than freemen) entitled to vote.

to serve in Parliament for such city or borough in respect of the occupation of premises of the clear yearly value of not less than ten pounds, situate wholly or in part within such parish or township, and another alphabetical list, . . . of all other persons (except freemen) who may be entitled to vote in the election of such city or borough by virtue of any other right whatsoever, and in each of the said lists the Christian name and surname of every such person shall be written at full length, together with the place of his abode and the nature of his qualification, and where any person shall be entitled to vote in respect of any property, then the name of the street, lane, and the number of the house (if any) or other description of the place where such property may be situate, shall be specified in the list: and the said overseers shall sign such lists, and shall forthwith cause a sufficient number of copies of each of the said lists to be written or printed, and shall publish copies of the said lists on or before the first day of August in such year, and shall likewise keep a copy of each of the said lists, to be perused by any person without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after such list shall have been so published, and shall deliver copies thereof to all persons applying for the same, on payment of a price for each copy after the rate contained in the table numbered (1) in the schedule (D.) to this Act annexed.

Copies of lists to be kept for inspection and sale.

Town clerks to prepare and publish the lists of freemen;

XIV. The town clerk of every city or borough shall, on or before the last day of July in the present and in each succeeding year, make out, according to the form numbered (5) in the said schedule (B.), an alphabetical list of all the freemen of such city or borough who may be entitled to vote in the election of a member or members to serve in any future Parliament for such city or borough, together with the respective places of their abode, and shall sign such list, and cause copies thereof to be written or printed, and shall publish the said list on or before the first day of August in such year, and shall likewise keep a copy thereof, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during the first fourteen days after such lists shall have been published, and shall deliver copies thereof to all persons applying for the same, on payment of a price for each copy after the rate contained in the table numbered (1) in the schedule (D.) to this Act annexed.

and keep copies for inspection and sale.

Persons omitted from the borough

XV. Every person whose name shall have been omitted in any such list of voters for any city or borough so to be made

Sect. 15.

Note.

A reference in this section to form 6 of schedule (B.) is replaced by form (H.) No. 1 of the Third Schedule of the Registration Order, 1895.

Sect. 15.

lists to give notice of their claims.

out as aforesaid, and who shall claim, as having been entitled on the *last day of July* then next preceding, to have his name inserted therein, and every person desirous of being registered for a different qualification than that for which his name appears in the said list, shall, on or before the *twenty-fifth day of August* in that year, give or cause to be given a notice . . . to the overseers of that parish or township in the list whereof he shall claim to have his name inserted, or if he shall claim as a freeman of any city or borough, or place sharing in the election therewith, then he shall in like manner give or cause to be given to the town clerk of such city, borough, or place a notice according to the form numbered (7) in the said schedule (B.) or to the like effect; and the overseers and town clerks respectively shall include the names of all persons so claiming as aforesaid in lists, according to the forms numbered (8) *and* (9) respectively in the said schedule (B.).

Lists of claimants to be made.

Registered electors and claimants may inspect rate-books for the purpose of any claim or objection.

XVI. It shall be lawful for any person whose name shall be on any list of voters for the time being for any city or borough, or for any person who shall have claimed to have his name inserted in any such list, upon request made by such person, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, between the tenth day of August and the last day of August, to any overseer or other officer having the custody of any poor-rate book, to inspect such poor-rate book, and make extracts therefrom for any purpose relating to any claim or objection made or intended to be made by or against such persons; and every such overseer or other officer as aforesaid, is hereby required, upon such request as aforesaid, to permit such inspection, and the making of such extracts, without payment of any fee.

Persons named in the list may

XVII. Every person whose name shall have been inserted in any list of voters for any city or borough may object to any

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Sect. 15. Note.

The words "(8) and" are repealed by the S. L. R. Act, 1891; the form (8) is replaced by form (K.) of the Third Schedule of the Registration Order, 1895.

For "the last day of July" now read "the fifteenth day of July" (41 & 42 Vict. c. 26, s. 7); and for "the twenty-fifth day of August" read "the twentieth day of August" (48 & 49 Vict. c. 15, s. 3 (1)).

Sect. 16. Note.

A similar but somewhat extended power of inspection is given by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 13.

Sect. 17. Note.

References in this section to forms (10) and (11) of schedule (B.) are replaced by forms (I.) of the Third Schedule of the Registration Order, 1895.

For "the last day of July" now read "the fifteenth day of

Sect. 17.

other person as not having been entitled on *the last day of July* next preceding to have his name inserted in any list of voters for the same city or borough; and every person so objecting shall, on or before the *twenty-fifth day of August* in that year, give or cause to be given a notice . . . to the overseers who shall have made out the list in which the name of the person so objected to shall have been inserted, or if the person objected to shall have been inserted in the list of freemen of any city or borough, except the city of London, then to the town clerk of such city or borough; and every person so objecting shall also give or cause to be left at the place of abode of the person objected to, as stated in the said list, a notice, . . . and every notice of objection shall be signed by the person objecting.

object to others as not being entitled to be in the list.

Notice of objection to be given to the overseers, or to the town clerk;

and also to the person objected to.

XVIII. The said overseers shall include the names of all persons so objected to in a list . . . ; and every town clerk shall include the names of all persons so objected to as freemen in a list, according to the form numbered (13) in the said schedule (B.); and the said overseers and town clerks respectively shall sign each of the said lists, and cause copies thereof to be written or printed, and shall publish the said list of persons objected to, and the said list of claimants as aforesaid, on or before the *first day of September* in the said year; and shall keep copies

List of persons objected to to be made.

Such lists and the lists of claimants to be published.

Sect. 17.

Note.

July" (41 & 42 Vict. c. 26, s. 7); and for "the twenty-fifth day of August" read "the twentieth day of August" (48 & 49 Vict. c. 15), s. 3 (1)).

By the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 26, the notice of objection under this section must specifically state the ground or grounds of objection.

As to the persons who may object, see *Pease* v. *Middlesborough, Town Clerk of*, [1893] 1 Q. B. 127, *supra*, p. 619.

It is sufficient to prove that the notice of objection was received in due time by the overseers, although not served upon any one of them in the manner prescribed by statute; and it is sufficient *primâ facie* evidence that the overseers received the notice in due time if it be shown that they acted upon it by inserting the name of the person objected to in the list of objections (*Jones* v. *Innous*, 17 C. B. 290; 25 L. J. C. P. 78; *Godsell* v. *Innous*, 17 C. B. 295; 25 L. J. C. P. 79).

Sect. 18.

Note.

A reference in this section to form (12) of schedule (B.) is replaced by form (L.) of the Third Schedule of the Registration Order, 1895.

For "first day of September" now read "twenty-fifth day of August"; and for "the first fourteen days of September" read "the first fourteen days after the said twenty-fifth day of August" (48 & 49 Vict. c. 26, s. 3 (2)).

By the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 30, so much of this section as relates to the manner of publishing lists of claimants and to the delivery of copies thereof to persons requiring the same, is extended to lists of occupier claimants in counties and lodgers in boroughs.

Sect. 18.

Copies of lists and notices of objection to be kept for inspection and sale.

of the said lists, and shall allow the same, and also the notices of objection which they shall have received, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, during *the first fourteen days of September* in the said year, and shall deliver copies of each of such lists to any person requiring the same, on payment of a price for each copy after the rate contained in the table numbered (1) in the schedule (D.) to this Act annexed.

Overseers to deliver copies of lists to the town clerk.

XIX. The said overseers shall, on or before the *twenty-ninth day of August* in every year, deliver to the said town clerk a copy of the said list of voters, made out by them as aforesaid, and a copy of the said list of persons who shall have claimed as aforesaid, and a copy of the list of persons objected to as aforesaid.

[Sect. 20. Provisions as to preparing and publishing lists of freemen and liverymen of the city of London by the secondaries.]

[Sect. 21. *As to freeholders in Horsham and Malmesbury:* Repealed by the S. L. R. Act, 1891.]

Provision as to places having no overseers.

XXII. Every precinct or place, whether extra-parochial or otherwise, which shall have no overseers of the poor, shall, for the purpose of making any claim, and making out any list directed by this Act, be deemed to be within the parish or township adjoining thereto and sharing in the right of election to which such claim or list may relate; and if such parish or place shall adjoin two or more parishes or townships situated as aforesaid it shall be deemed to be within the least populous of such parishes or townships, according to the last census for the time being.

What shall be publication of notice.

XXIII. Every notice, list, register, or other document herein required to be published, shall be so published, except

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Sect. 19. Note.

For "twenty-ninth day of August" now read "twenty-fifth day of August" (48 & 49 Vict. c. 26, s. 3 (2)).

Sect. 22. Note.

For the appointment of overseers for extra-parochial places, see the Extra-Parochial Places Act, 1857 (20 Vict. c. 19); and for the incorporation of extra-parochial places with adjoining parishes, see the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 27.

Sect. 23. Note.

By the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 76), s. 9, lists and notices must be published in post and telegraph offices in boroughs; and this provision is extended to counties by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

As to publication of notices, &c., where parishes are grouped together for ecclesiastical purposes and have only one church, see *Hildred* v. *Ingram*, 64 L. J. M. C. 57, *supra*, p. 622.

Sect. 23.

where some other mode or place of publication is herein expressly provided, by being fixed in some public and conspicuous situation on the outside of the outer door or outer wall near the door of the buildings herein-after named for that purpose; (that is to say) in the case of publication by overseers, every church and public chapel in their parish or township, including places of public worship which do not belong to the Established Church, and in the case of publication by a town clerk, the town hall, or in either case, if there be no such building as is herein-before named for that purpose, then in some public and conspicuous situation within the parish or township, city, borough, or place respectively.

Time for which publication shall be.

XXIV. In all cases in which any notice, list, register, or other document shall, pursuant to the provisions aforesaid, be affixed on or near the door of any church, chapel, town hall, or other place, the same shall continue so fixed for a period including two consecutive Sundays at the least next after the day on or before which the same is herein-before required to be published; and in case the same shall be destroyed, mutilated, effaced, or removed before the expiration of such period, the party herein-before required to publish the same as aforesaid shall, as soon as conveniently may be, publish in like manner in its place another notice, list, register, or other document, to the like purport and effect with the notice, list, register, paper, or document so destroyed, mutilated, effaced, or removed.

Penalty for hindering publication.

XXV. Every person who shall wilfully destroy, mutilate, efface, or remove any notice, list, register, or other document so affixed as aforesaid, during the period during which the same is herein-before required to remain so affixed, shall for every such offence forfeit any sum not exceeding forty shillings nor less than ten shillings to any person who will sue for the same, to be recovered in a summary manner before any two justices of the peace.

List not invalidated by imperfect publication.

XXVI. No list shall be invalidated by reason that it shall not have been affixed in every place and for the full time herein-before required for publication thereof, but that the barrister shall proceed to revise and adjudicate upon every such list which shall have been affixed in any place and for any part of the time herein-before mentioned in that behalf; but nothing herein contained shall be construed to exempt the overseer, town clerk, or other person charged with the duty of publishing such list as aforesaid from the penalties of his neglect or wilful default.

Sect. 26.

Note.

For penalties on overseers for neglect or default, see sects. 51, 97, *infra*.

Sect. 27. [Sect. 27. If no list made out or published, former list to be in force.]

[Sects. 28, 29. Appointment of revising barristers.]

[Sect. 30. *Barristers may hold separate courts:* Repealed by the S. L. R. Act, 1891.]

[Sect. 31. Barrister to notify his appointment to clerk of the peace and town clerks, who are to transmit to him abstracts and lists.]

Barristers to hold courts for revising lists of voters for counties within a certain period, and to give notice of the times and places of holding such courts to the clerk of the peace who is to give notice thereof by advertisement, and to the overseers.

XXXII. The barrister appointed to revise the lists of any county, shall make a circuit and hold open courts for such revision at each of the places which now are or hereafter may be appointed as polling places for such county, and at any other places within the said county which he shall think expedient, at convenient times between *the fifteenth day of September inclusive and the last day of October inclusive* in the then current year, and shall, *ten days* at the least before the holding of the first court of revision, give notice to the clerk of the peace of the several times and places at which the said courts will be holden, and of the several parishes the lists of and for which will be revised at each of the said courts; and the said clerk of the peace shall forthwith cause public notice thereof to be given by advertisement in one or more of the newspapers circulating within the said county, and shall cause a sufficient number of copies of the said notice to be written or printed, and shall deliver or send a copy thereof to the overseers of every parish or township, and require them to publish the said copy of the said notice, and to attend at the court therein appointed for the revision of the list of voters relating to their said parish or township, and the said overseers shall forthwith publish the said copy of the said notice accordingly.

Barristers to hold courts for revising the lists of voters for boroughs,

XXXIII. The barrister or barristers appointed to revise the lists of voters for any city or borough shall hold an open court or courts for that purpose within such city or borough, and also within every place sharing in the election for such city or

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Sect. 32. Note. For "the fifteenth day of September inclusive and the last day of October inclusive," now read "the eighth day of September and the twelfth day of October, both inclusive" (51 & 52 Vict. c. 10, s. 6 (1), which also requires that the lists shall be revised as soon as possible after September 7th).

For "ten days" now read "seven days" (48 & 49 Vict. c. 15, s. 4 (1)).

Sect. 33. Note. For the words in italics now read "the eighth day of September, and the twelfth day of October, both inclusive" (51 & 52 Vict. c. 10, s. 6 (1)).

borough, between *the fifteenth day of September inclusive and the last day of October inclusive* in the then current year, and such barrister or barristers shall, seven days at the least before holding any such court or courts, give notice to the town clerk of such city or borough of the time and place of holding the same; and if such barrister shall, in his discretion, deem it expedient to hold his courts at different times and places within the said city or borough, the said barrister shall in such case give notice to the said town clerk of such times and places so appointed, and of the parishes allotted to each court; and the town clerk shall forthwith publish a notice of the time and place of the holding of every such court as aforesaid on the town hall, and on every church and chapel within such city or borough, or, if there be no church or chapel or town hall therein, then in some public and conspicuous place therein.

Sect. 33.

and give notice thereof to the town clerk, who is to publish the same.

XXXIV. The clerk of the peace of every county, at the opening of the first court to be so holden as aforesaid in and for the same county, shall deliver or cause to be delivered to the said barrister or barristers all the lists of voters for the then current year, with the marginal additions as aforesaid, and lists of persons objected to in the said year, relating to the said county, and also one or more printed copies of the register of voters then in force for the said county; and the overseers of every parish and township shall attend the court to be holden for revising the lists relating to their parish or township, and shall deliver to the barrister or barristers holding such court the original notices of claim and notices of objection given to them as aforesaid; and the said clerk of the peace and overseers shall (if required) answer upon oath all such questions as such barrister or barristers may put to them, and produce all documents, papers, and writings in their possession, custody, or power touching any matter herein mentioned.

In counties clerks of the peace to attend the first court, and overseers to attend the courts for their respective district and parishes and produce lists of voters, registers, notices of claims and objections, and answer questions, and produce documents, &c.

XXXV. The town clerk of every city or borough, and the several overseers for the time being of every parish or township

In boroughs and London town clerks,

For the production of rate-books, and the summoning of overseers in counties, see the Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), ss. 28, 29.

Sect. 34. Note.

For "sixth day of April" now read "fifth day of January" (11 & 12 Vict. c. 90). The provisions of this section as to delivery of lists to the barrister are extended to the occupiers' list in counties by 48 & 49 Vict. c. 15, s. 6 (2).

Sect. 35. Note.

By the Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 28, overseers are required to produce all poor rates to the barrister revising for the county; and by sect. 29 power is given to barristers revising for counties to summon and examine past overseers or relieving officers.

Sect. 35.

overseers, and secondaries and clerks of companies, to attend the courts, to produce lists, notices and rates, and answer questions, &c.

therein, and in the city of London the secondaries and the clerks of the several livery companies of such city, shall attend the first court to be holden before every such barrister for every such city or borough, unless they shall have been respectively required by notice to attend at some other court, in which case they shall attend the said court as required; and the said overseers, town clerks, and secondaries respectively shall, at the opening of the said court, deliver to the said barrister the several lists so made by them respectively as aforesaid, and also the original notices of claim and of objection received by them as aforesaid; and the said overseers shall also produce at the said court all rates made for the relief of the poor of their respective parishes or townships between the *sixth day of April* in the year then last past and the last day of July in the then present year; and the said town clerks, overseers, secondaries, and clerks respectively shall answer upon oath all such questions as any such barrister may put to them or any of them, and produce all documents, papers, and writings in their possession, custody, or power touching any matter necessary for revising the list of voters; and every such barrister shall have power to require any assessor, collector of taxes, or other officer having the custody of any tax assessment or duplicate, or any overseer or overseers of a past year, or other person having the custody of any poor rate of the then current or any past year, or any relieving officer, and in the city of London the chamberlain or his deputy, to attend before him at any court to be holden by him in pursuance of this Act, and they shall attend accordingly, and answer upon oath all such questions as such barrister may put to them.

Power to barrister to require attendance of overseers of past year, and assessor and collector, &c. of taxes, who shall answer upon oath all questions put to them.

County voters residing out of the polling district to which the parish wherein their qualification is situate belongs may vote in another polling district, on making a claim before the revising barrister.

XXXVI. Any person whose name shall appear in the list of voters of any parish or township in and for any county, and whose place of abode, as stated in such list, shall not be within the polling district at which the said parish or township shall be allotted to poll, but within the same county, shall be at liberty to make his claim before the revising barrister to vote at the polling place of the district wherein his said place of abode may be situate; and any person whose name shall appear in any list as aforesaid, and whose place of abode, as stated in such list, shall not be within the same county, shall be at liberty in like manner to make his claim to vote at the polling place of any district within the same county; and every such person shall make his claim in writing under his hand, and such claim shall be delivered to and verified before the revising barrister holding his court for the revision of the list of voters in which the name of such person shall appear as aforesaid, and it shall then be lawful for the said barrister to insert in the said list, against the name of such person so claiming as aforesaid, the name of the polling place at which such person shall be registered to vote; and such person so

registered shall be admitted to vote at every contested election for the said county at the said last-mentioned polling place, and not elsewhere, anything in the said recited Act to the contrary notwithstanding. Sect. 36.

XXXVII. If any person who shall have given to the overseers of any parish or township due notice of his claim to have his name inserted in the list of persons entitled to vote in the election of a knight or knights of the shire shall have been omitted by such overseers from such list, it shall be lawful for the revising barrister, upon the revision of such list, to insert therein the name of the person so omitted, in case it shall be proved to the satisfaction of such barrister that such person gave due notice of such his claim to the said overseers, and that he was entitled on the *last day of July* then next preceding to be inserted in the said list of voters. Barrister to have power to insert in the county lists the names of claimants omitted by the overseer on proof of claim and qualification.

[Sect. 38. Power of barrister to insert names of claimants in list of borough voters. (See 48 & 49 Vict. c. 15, s. 4 (5).)]

[Sect. 39. Any person on list of voters may object to claimants, on giving notice to revising barrister.]

[Sect. 40. *Corrections which may be made by the barrister in the register:* Repealed by 48 & 49 Vict. c. 15, s. 17.]

[Sect. 41. Power of revising barristers to adjourn their courts, administer oaths, &c. Persons swearing falsely guilty of perjury. Barrister in open court to decide upon validity of claims and objections, and verify all alterations in lists by his signature.]

[Sect. 42. Appeal from revising barrister's decision on points of law.]

XLIII. In the matter of every such appeal the party in whose favour the decision appealed against shall have been given shall be the respondent; but if there be no such party, or if such party, or some one on his behalf, shall in open court decline, and state in writing that he declines, to support the decision appealed against as respondent, then and in every such case it shall be lawful for the said revising barrister to name any person who may be interested in the matter of the said appeal, and who may consent, or the overseers of any parish or township, or the town clerk of any city or borough, Who shall be respondent on appeal.

For "the last day of July" now read "the fifteenth day of July" (48 & 49 Vict. c. 15, s. 12). Sect. 37. Note.

As to making the clerk of the peace or town clerk a respondent for the purposes of costs, see 41 & 42 Vict. c. 26, s. 38. Sect. 43. Note.

Sect. 43.

to be, and such person so consenting, or such overseers or town clerk respectively so named, shall be deemed to be the respondent or respondents in such appeal.

[Sect. 44. Power to consolidate appeals.]

[Sect. 45. Consolidated appeals to be conducted as any single appeal, and decision to be binding on all parties.]

[Sect. 46. Power to barrister to give costs in certain cases to parties claiming or objecting.]

County lists to be transmitted to clerk of the peace, and to be by him copied into a book.

XLVII. The said lists of voters for each county, signed as aforesaid, shall be forthwith transmitted by the revising barrister to the clerk of the peace of the same county, and the clerk of the peace shall keep the said lists among the records of the sessions, and shall forthwith cause the said lists to be copied, and printed in a book or books, arranged with the names in each parish or township in strict alphabetical order, according to the surnames, and with every polling district in alphabetical order, and with every parish or township within such polling district likewise in the same order, and shall, after the last list for each polling district, insert a list in like alphabetical order of all persons whose names shall not appear in any of the said lists for such polling district, but who shall in manner herein-before mentioned have been registered by the revising barrister to vote at the polling place of such last-mentioned district, and shall in the said book prefix to every name its proper number, beginning the numbers from the first name, and continuing them in a regular series down to the last name: Provided always, that a number as aforesaid shall be prefixed to the name of every person in every such list inserted after the last list for any polling district as aforesaid; and no number, but an asterisk only, shall be prefixed to the name of the same person in the list of the parish or township in which his name originally appeared; and every such book shall be printed and arranged in such manner and form that the list of voters of and for each and every separate parish or township contained therein may be conveniently and completely cut out or detached from all the other lists of voters contained in the same book, so that all the lists for every or any polling place, or the list of every or any single parish or township, may be

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Sect. 47.

Note.

For "November" now read "December" (30 & 31 Vict. c. 102, s. 38).

Where a municipal borough or urban district is co-extensive with an electoral division or divisions of a parliamentary county, the county council may order lists to be made out according to streets (51 & 52 Vict. c. 10, s. 4 (3)).

A copy of the register must be sent to the Home Office within twenty-one days after February 1st (31 & 32 Vict. c. 58, s. 37).

ready for the purposes of this Act or for sale; and the said clerk of the peace shall sign and deliver the said book or books on or before the last day of *November* in the then current year to the sheriff of the county, to be by him and his successors in the office of sheriff safely kept, for the purposes herein-after and in the said recited Act mentioned.

Sect. 47.

Clerk of the peace to sign and deliver a copy to the sheriff.

XLVIII. The lists of voters for each city or borough, signed as aforesaid, shall be forthwith delivered by the revising barrister to the town clerk of the same city or borough; and the said town clerk shall forthwith cause the said lists to be copied and printed in a book; and in the said book the said lists shall be arranged and every name numbered according to the directions aforesaid with regard to the county lists, so far as the same are applicable; and the said town clerk shall sign and deliver the said book on or before the said last day of *November* to the returning officer of the same city or borough, to be by him and his successors as returning officer safely kept for the purposes herein-after mentioned.

Borough lists to be delivered to the town clerks, and copied into a book.

Town clerks to sign and deliver same to returning officers.

[Sect. 49. Copies of registers to be printed for sale.]

L. Any assessor or collector of taxes or other officer, or any overseer or overseers of the poor, or other persons having the custody of any poor-rate book for any past year, or any assistant overseer or relieving officer, who shall wilfully refuse or neglect, when duly required by summons under the hand of any revising barrister, to attend before such barrister at any court to be holden as aforesaid, according to the exigency of such summons, shall, upon proof before him of the service of such summons, be liable to pay by way of fine for every such offence a sum of money not exceeding five pounds nor less than twenty shillings, to be imposed by and at the discretion of the said barrister holding any such court as aforesaid.

Assessors and other officers neglecting to attend when summoned by revising barrister, liable to be fined.

LI. Any overseer of any parish or township who shall wilfully refuse or neglect to make out any list, or who shall wilfully neglect to insert therein the name of any person who

Power to barristers to fine overseers for neglect of duty.

For "November" now read "December" (30 & 31 Vict. c. 102, s. 38).

Sect. 48.

Note.

Borough lists are to be arranged according to polling districts (30 & 31 Vict. c. 102, s. 34), and according to streets (41 & 42 Vict. c. 26, s. 21, and 51 & 52 Vict. c. 10, s. 5).

By sect. 97, *infra*, persons wilfully contravening this Act are liable to the party aggrieved in a penalty of 100*l*.

Sect. 51.

Note.

An offence by an overseer within the purview of this section is not an indictable misdemeanour (*Reg.* v. *Hall*, [1891] 1 Q. B. 747; 60 L. J. M. C. 124; 64 L. T. 394; 17 Cox, C. C. 278).

Sect. 51.

shall have given due notice of claim, or who in making out the list of voters for any city or borough shall wilfully and without any reasonable cause omit the name of any person duly qualified to be inserted in such list, or who shall wilfully and without reasonable cause insert in such list the name of any person not duly qualified, or who shall wilfully refuse or neglect to publish any notice or list, or copy of the part of the register of voters relating to his parish or township, at the time and in the manner required by this Act, or who shall wilfully refuse or neglect to deliver to the clerk of the peace the copy of the lists of claimants and of persons objected to, and the copies of the register, as required by this Act, or who shall wilfully refuse or neglect to deliver to the town clerk of the city or borough the copies of the several lists as required by this Act, or who shall wilfully refuse or neglect to attend the court for revising the lists of voters of his parish or township, or to attend any revising barrister when required by any summons as aforesaid, or who shall wilfully refuse or neglect to deliver to the barrister or barristers holding any such court the several lists to be made out by them as aforesaid, or who shall be wilfully guilty of any other breach of duty in the execution of this Act, shall for every such offence be liable to pay by way of fine a sum of money not exceeding five pounds nor less than twenty shillings, to be imposed by and at the discretion of any barrister holding any court for the revision of any list of the parish or township of such overseer: Provided always, that nothing herein contained as to any fine as aforesaid shall affect or abridge any right of action against any overseer or other person liable to any fine as aforesaid, or any liability such overseer or other person may incur under or by virtue of this Act or the said recited Act.

Fines, to whom payable, and to what purpose to be applied.

LII. Every revising barrister, when and so often as he shall impose any such fine as aforesaid, shall at the same time in open court, by an order in writing under his hand, stating the sum payable for such fine, direct by and to whom and when the same shall be paid, and the person to whom the said sum shall be so ordered to be paid shall receive the same, and in every case where the offence for which the said fine shall have been so imposed shall relate to the formation of the register of voters for any county he shall pay over the sum so received by him to the clerk of the peace of the same county, and in every case where such offence shall relate to the formation of the register of voters for any city or borough he shall pay over the sum so received by him to the town clerk of the same city or borough, or to the said secondaries, as the case may require.

[Sect. 53. Clerk of the peace and town clerk to account for and pay over all monies received by them.]

[Sect. 54. Expenses of clerks of the peace, how to be defrayed.]

Sect. 55.

Expenses of town clerks and returning officers, how to be defrayed.

LV. All the expenses incurred by any town clerk or returning officer of any city or borough in carrying into effect the provisions of this Act shall be defrayed out of the monies to be collected for the relief of the poor in the several parishes and townships within the same city or borough; and the sum to be contributed by every such parish or township shall be calculated, as nearly as may be, according to the same relative proportion as the number of persons whose names shall appear in the list of the said parish or township shall bear to the number in all the other lists upon the same register; and an account of all the said expenses so incurred, and also an account of the sum to be contributed for defraying the same by each parish or township as aforesaid, shall, as soon as may be after the said expenses shall have been so incurred, be laid before the common council or town council of the said city or borough, or, if there be no such council in any city or borough, then before the justices of the peace at the quarter sessions to be holden in and for the county in which the same city or borough is situate; and the said council or the said justices respectively shall, when they allow the said accounts, make and give to the said town clerk a certificate of the total sum allowed by such council or justices in respect of the said expenses, and also a certificate of the sum to be paid by and as the contribution of each of the said parishes or townships towards defraying the same; and thereupon it shall be lawful for the overseers of every such parish or township, and they are hereby required, out of the first monies to be collected for the relief of the poor, to pay the sum in such certificate mentioned to be paid by and as the contribution of the said parish or township to the said town clerk.

Meaning of the words "town clerk" in certain cases.

LVI. Provided always, that throughout this Act the words "town clerk" shall not be understood to mean or apply to the town clerks of the cities of London [or Westminster], *or to the town clerk of the borough of Southwark*, but throughout this Act by the words "town clerk" shall be understood in regard to the city of London the secondaries of the said city, [and in regard to the city of Westminster the high bailiff of the said city], *and in regard to the borough of Southwark the high bailiff of the said borough.*

Sect. 55. Note.

As to what expenses may be included, see 30 & 31 Vict. c. 102, s. 31; 41 & 42 Vict. c. 26, s. 38; 48 & 49 Vict. c. 3, and 48 & 49 Vict. c. 15, s. 8.

Sect. 56. Note.

The words within brackets relating to Westminster are repealed by the S. L. R. Act, 1891; the words in italics relating to Southwark are repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 35 (2).

Sect. 57.

Expenses of overseers, how to be defrayed.

LVII. An account of all expenses incurred by the overseers of every parish or township in carrying into effect the provisions of this Act shall be laid before the revising barrister at the court at which the list of voters for such parish or township shall be revised; and the said barrister shall sign and give to the said overseers a certificate of the sum which he shall allow to be due to them in respect of the said expenses; and it shall be lawful for the said overseers to receive the sum so certified to be due to them from and out of the first monies thereafter to be collected for the relief of the poor in the same parish or township.

No payment necessary by persons making claim in counties;

nor by persons on register in cities and boroughs.

LVIII. Notwithstanding anything in the said recited Act contained, it shall not be necessary for or required of any person claiming or upon giving notice of any claim as herein or in the said recited Act mentioned to pay or cause to be paid to the overseer of any parish or township the sum of one shilling, or any other sum; nor shall any notice of claim as aforesaid be invalid by reason of such or any sum not having been paid; and no person whose name shall be upon any register of voters for any city or borough shall be therefore liable to the payment of one shilling annually, or of any other sum on that account.

[Sect. 59. *Remuneration of revising barristers:* Repealed by 51 & 52 Vict. c. 10, s. 10.]

[Sects. 60, 62—70 *related to procedure, &c., on appeal to the High Court.* Sect. 61. *As to rights of barristers to practise in the Common Pleas:* Repealed by the S. L. R. Act, 1874.]

Costs and fines to be recovered by distress and sale of the parties' goods.

LXXI. In case any sum of money by the order of any revising barrister as aforesaid directed to be paid by any person by way of fine or for costs shall not be paid according to the terms of such order, it shall be lawful for any justice of the peace and he is hereby required, upon proof before him that a true copy of the said order hath been served upon or left at the usual place of abode of the person in the said order directed to pay such sum, and that the said sum hath been demanded of such person, and that he hath refused or neglected to pay the same, by warrant under his hand and seal to order the said sum of money, together with the costs of and attending the said warrant, to be levied by distress and sale of the goods and chattels of such person so making default which may be found within the

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Sect. 57. Note.

As to what expenses may be included in the account, see 31 & 32 Vict. c. 58, s. 31; 41 & 42 Vict. c. 26, s. 30; and 51 & 52 Vict. c. 10, s. 8.

The certificate of the barrister is conclusive (31 & 32 Vict. c. 58, s. 32).

jurisdiction of the said justice; and the overplus, if any, after the said sum of money and costs, and the charges of such distress and sale, are deducted, shall be returned, upon demand, to the owner of the said goods and chattels: Provided always, that no *certiorari* or other writ or process for the removal of any such order or warrant, or of any order or warrant to be made or issued on account of a false charge of personation in the manner herein-after provided, or any proceeding thereon respectively, into any of Her Majesty's Courts at Westminster, shall be allowed or granted.

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No *certiorari* allowed.

[Sect. 72. *Repealing* 3 *Geo.* 3, *c.* 24: Repealed by the S. L. R. Act, 1874. Sect. 73 (except in so far as relates to the rights of persons saved by the Representation of People Act, 1884): Repealed by the S. L. R. Act, 1891.]

[Sect. 74. Provision as to voting in respect of estates subject to mortgages or trusts.]

LXXV. And whereas by the said first-recited Act it is enacted, that in every city or borough which shall return a member or members to serve in any future Parliament, every male person of full age, and not subject to any legal incapacity, who shall occupy within such city or borough, or within any place sharing in the election for such city or borough, as owner or tenant, any house, warehouse, counting house, shop, or other building, being either separately or jointly with any land within such city, borough, or place, occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, of the clear yearly value of not less than ten pounds, shall, if duly registered according to the provisions therein-after contained, be entitled to vote in the election of a member or members to serve in any future Parliament for such city or borough; and it is also provided, that no such person shall be so registered in any year unless he shall have occupied such premises as aforesaid for twelve calendar months next previous to the *last day of July* in such year, nor unless such person, where such premises are situate in any parish or township in which there shall be a rate for the relief of the poor, shall have been rated in respect of such premises to all rates for the relief of the poor in such parish or township made during the time of such his occupation so required as aforesaid, nor unless such person shall have paid on or before the twentieth day of July

2 & 3 Will. 4, c. 45, s. 27.

Sect. 75.

Note.

For "the last day of July" and "the sixth day of April" now read "the fifteenth day of July" and "the fifth day of January" respectively (41 & 42 Vict. c. 26, s. 7; 11 & 12 Vict. c. 90).

By the Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 30, the provisions of this section are applied to all occupiers of premises capable of conferring the franchise for a county under the Representation of the People Act, 1867 (30 & 31 Vict. c. 102).

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in such year all the poor's rates and assessed taxes which shall have become payable from him in respect of such premises previously to the *sixth day of April* then next preceding: And whereas doubts have arisen how far any misnomer or inaccurate or insufficient description in a rate of the person occupying any such premises as in the said recited Act are mentioned, or any inaccurate description of the premises so occupied, has the effect of preventing any such person from being registered and entitled to vote in respect of such premises in any year: Be it therefore declared and enacted, that where any person shall have occupied such premises as in the said recited Act are mentioned for twelve calendar months next previous to the *last day of July* in any year, and such person being the person liable to be rated for such premises shall have been *bonâ fide* called upon to pay in respect of such premises all rates made for the relief of the poor in such parish or township during the time of such his occupation so required as aforesaid, and such person shall have *bonâ fide* paid on or before the twentieth day of July in such year all sums of money which he shall have been called upon to pay as rates in respect of such premises for one year previously to the *sixth day of April* then next preceding, such person shall be considered as having been rated and paid all rates in respect of such premises within the meaning of the said recited Act, and be entitled to be registered in respect of the same in any year, any misnomer or inaccurate or insufficient description in any rate of the person so occupying or of the premises occupied notwithstanding.

Inaccurate description in rate not to prevent persons being registered.

How distances to be measured.

LXXVI. And whereas doubts have arisen as to the measurement of the distance of seven statute miles in the said first-recited Act mentioned and therein prescribed, as to the residence of voters for any city or borough: Be it therefore declared and enacted, that the said distance shall be understood to be the distance of seven miles as measured in a straight line on the horizontal plane from the point within any city or borough or place sharing in the election therewith from which such distance is to be measured, according to the directions in that behalf in the said Act: Provided always, that in cases where there is now or shall hereafter be a map of any city or borough, and of the country surrounding the same, drawn or published under the authority and direction of the principal officers of Her Majesty's Ordnance, such distance may be measured and determined by the said map.

[Sect. 77. *As to freeholders in Shoreham, Cricklade, &c.:* Repealed by the S. L. R. Act, 1891.]

Sect. 76.

Note.

The measurement should be made to the curtilage of a house, not to the walls of the house itself (*Wright* v. *Wallasey Local Board*, 18 Q. B. D. 783; 56 L. J. Q. B. 259; 52 J. P. 4).

Sect. 78.

2 & 3 Will. 4, c. 45, s. 33.

LXXVIII. And whereas by the said first-recited Act it is enacted and provided, that every person then having a right to vote in the election for any city or borough in virtue of any other qualification than as a burgess or freeman, or as a freeman and liveryman, or as a freeholder or burgage tenant, as therein mentioned, shall retain such right of voting so long as he shall be qualified as an elector, according to the usages and customs of such city or borough, or any law then in force, and that such person shall be entitled to vote in the election of a member or members to serve in Parliament for such city or borough, if duly registered according to the provisions in the said Act in that behalf contained; and it is thereby further provided, nevertheless, that every such person shall for ever cease to enjoy such right of voting for any such city or borough as aforesaid if his name shall have been omitted from the register of such voters under certain circumstances therein and herein-after specified: And whereas doubts have arisen as to the intent and meaning of the words the "register of such voters" in such last-mentioned provision: Be it therefore declared and enacted, that every such person shall for ever cease to enjoy such right of voting in virtue of any other qualification than as a burgess or freeman, or as a freeman and liveryman, or as a freeholder or burgage tenant as aforesaid, if his name shall for two successive years not have been inserted or appear in the register of voters for such city or borough in respect of such other qualification (notwithstanding the name of such person may appear in such register for both or either of the same two successive years in respect of some qualification of a different nature), unless the name of such person in any such year shall not have been inserted as aforesaid, or have been omitted by reason or in consequence of his having received parochial relief within twelve calendar months next previous to the *last day of July* in the same year, or by reason or in consequence of his absence on the naval and military service of Her Majesty.

Cesser in certain cases of special rights of voting reserved by recited enactment.

[Sect. 79. Register to be conclusive.]

[Sect. 80. *As to putting questions at the poll:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

[Sect. 81. No inquiry at time of election, except as to identity of voter, and whether he has already voted.]

[Sect. 82. Voter not to be required to take any other oath.]

[Sects. 83, 84. *As to personation:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 22.]

Sect. 78. Note.

For "the last day of July" now read "the fifteenth day of July" (41 & 42 Vict. c. 26, s. 7).

Sect. 85.

[Sects. 85—89. As to detection and punishment of personation.]

[Sect. 90. Sheriffs and returning officers to provide constables at polling places.]

[Sect. 91. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

[Sect. 92. Liverymen of London to poll in the Guildhall.]

[Sect. 93. Poll books at the close of a contested election to be sealed and transmitted to the clerk of the Crown in Chancery.]

[Sects. 94—96. *As to duties of clerk of the Crown:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

Parties wilfully contravening the Act liable to an action for debt.

XCVII. Every sheriff, under-sheriff, clerk of the peace, town clerk, secondary, returning officer, clerk of the Crown, postmaster, overseer, or other person, or public officer, required by this Act to do any matter or thing, shall for every wilful misfeasance, or wilful act of commission or omission contrary to this Act, forfeit to any party aggrieved the penal sum of one hundred pounds, or such less sum as the jury before whom may be tried any action to be brought for the recovery of the before-mentioned sum shall consider just to be paid to such party, to be recovered by such party, with full costs of suit, by action for debt in any of Her Majesty's Superior Courts at Westminster: Provided always, that nothing herein contained shall be construed to supersede any remedy or action against any returning officer according to any law now in force.

[Sects. 98, 99. *As to election committees and returning officers:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

Notice of objection may be sent by the post.

C. And be it enacted, that it shall be sufficient in every case of notice to any person objected to in any list of county, city, or borough voters, and in the livery list of the city of London, and also in the case of county voters to the occupying tenant whose name and place of abode appears in such respective list as aforesaid, if the notice so required to be given as aforesaid shall be sent by the post, free of postage, or the sum chargeable as postage for the same being first paid, directed to the person to whom the same shall be sent at his place of abode as described in the said list of voters; and whenever any person shall be desirous of sending any such notice of objection by the post, he shall deliver the same, duly directed, open and in duplicate, to the postmaster of any post office where money

Sect. 97. Note.

See note to sect. 51, *supra*.

Sect. 100. Note

The provisions of this section are applied to notices of objection under 28 & 29 Vict. c. 36, by sect. 9 of that Act, and to notices of objection under 41 & 42 Vict. c. 26, by sect. 40 of that Act.

orders are received or paid, within such hours as shall have been previously given notice of at such post office, and under such regulations with respect to the registration of such letters, and the fee to be paid for such registration (which fee shall in no case exceed twopence over and above the ordinary rate of postage), as shall from time to time be made by the Postmaster-General in that behalf; and in all cases in which such fee shall have been duly paid the postmaster shall compare the said notice and the duplicate, and on being satisfied that they are alike in their address and in their contents, shall forward one of them to its address by the post, and shall return the other to the party bringing the same, duly stamped with the stamp of the said post office: and the production by the party who posted such notice of such stamped duplicate shall be evidence of the notice having been given to the person at the place mentioned in such duplicate on the day on which such notice would in the ordinary course of post have been delivered at such place: Provided also, that if no place of abode of the person objected to shall be described in the said list, or if such place of abode shall be situated out of the United Kingdom, then it shall be sufficient if notice shall be given to the said overseers, and to such occupying tenant as aforesaid (if any) in the case of a county voter, or, in the case of a city or borough voter, to the overseers or to the town clerk, or in the case of a liveryman of the city of London, to the secondaries and clerk of the particular company to which the person objected to shall belong, as is in each of the said cases herein-before required.

Interpretation clause.

CI. Throughout this Act, in the construction thereof, except there be something in the subject or context inconsistent with or repugnant to such construction, the word "county" shall extend to and mean any county, riding, parts or division of a county, respectively returning a knight or knights of the shire to serve in Parliament; and the words "city or borough" shall extend to and mean any city, borough, town corporate, cinque port, district, or place within England and Wales returning a member or members to serve in Parliament, other than counties at large, and ridings, parts and divisions of counties at large, and to every place sharing in the election of a member for any city or borough, and shall also include the town of Berwick-upon-Tweed; that the words "clerk of the peace" shall comprehend and apply to any deputy or other person executing the duties of such clerk of the peace; and the words "town clerk" shall, except in regard to the cities of London and Westminster and the borough of Southwark, extend to and mean any person executing the duties of town clerk, or if in any city or borough there shall be no such officer as town clerk, then to any officer executing the same or like duties as usually devolve upon the town clerk, or if in any city or borough there be no such person, then to the

Meaning of the word "county:"

"city or borough;"

"clerk of the peace:"

"town clerk:"

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"returning officer:"

"parish or township:"

"overseers" or "overseers of the poor."

Provision as to service of notices.

returning officer of such city or borough, or to such person as the returning officer may appoint for that purpose, which he is hereby authorized to do; and the words "returning officer" shall apply to every person or persons to whom by virtue of his or their office, under any law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in Parliament, by whatever name or title such person or persons may be called; and the words "parish or township" shall extend to and mean every parish, township, village, hamlet, district, or place maintaining its own poor; and the words "overseers" or "overseers of the poor" shall extend to and mean all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed, and that all matters by this Act directed to be done by the overseers of a parish or township may be lawfully done by the major part of such overseers; and that wherever any notice is by this Act required to be given or sent to the overseers of any parish or township, it shall be sufficient if such notice shall be delivered to any one of such overseers, or shall be left at his place of abode, or at his office or other place for transacting parochial business, or shall be sent by the post, free of postage, or the postage thereof being first paid, addressed to the overseers of the particular parish or township, naming the parish or township, and the county, city, or borough respectively, to which the notice to be so sent may relate, without adding any place of abode of such overseers; and that wherever by this Act any notice is required to be given or sent to any person or persons whatsoever, or public officer, it shall be sufficient if such notice to be sent by the post in the manner and subject to the regulations herein-before provided with respect to sending notices of objection by the post, free of postage, or the postage thereof being first paid, addressed with a sufficient direction to the person or persons to whom the same ought to be given or sent, at his or their

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Note.

An assistant overseer appointed in general terms for a parish under the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 7, without any limitation of the duties which he was to perform, was held to be an "overseer" within the definition of this section (*Points* v. *Attwood*, 6 C. B. 38; 18 L. J. C. P. 19; 13 Jur. 85). So also was an assistant overseer whose salary had been increased by a resolution of the vestry, but who had not been reappointed by the justices at such increased salary (*Caunter* v. *Addams*, 15 C. B. (N. S.) 512; 33 L. J. C. P. 68; 9 L. T. (N. S.) 391; 9 Jur. (N. S.) 1295; 12 W. R. 1105; 28 J. P. 89).

A collector of rates appointed to assist the overseers and to obey all lawful orders and directions of the guardians and of a majority of the churchwardens and overseers was held to be an "overseer" within this section (*Green* v. *Mepham*, 48 L. J. C. P. 92; 39 L. T. 450; 43 J. P. 72).

Sect. 101.

usual place of abode; and that all provisions in this Act relative to any matters to be done by or with regard to justices of the peace for counties, or sessions of the peace for counties, or clerks of the peace for counties, or treasurers of counties, shall extend to the justices, sessions, clerks of the peace, and treasurers of the several ridings of Yorkshire and parts of Lincolnshire; and that the town clerk for the time being for the borough of Newport in the Isle of Wight shall for the purposes of this Act be deemed and taken to be the clerk of the peace for the county of the Isle of Wight; and that all the said respective justices, sessions, and clerks of the peace shall have power to do the several matters required by this Act, as well within places of exclusive jurisdiction as without; and that no misnomer or inaccurate description of any person, place, or thing named or described in any schedule to this Act annexed, or in any list or register of voters, or in any notice required by this Act, shall in anywise prevent or abridge the operation of this Act with respect to such person, place, or thing, provided that such person, place, or thing, shall be so denominated in such schedule, list, register, or notice, as to be commonly understood; and that the word "oath" shall include affirmation, where by law such affirmation is required or allowed to be taken in place of an oath; and where the subject or context requires it, every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things.

Justices, sessions, clerks of the peace, and treasurers of counties.

Misnomer not to vitiate.

"Oath."

Singular.

Plural.

[Sect. 102. Repealed by the S. L. R. Act, 1874.]

SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE (A.).

Forms for Counties.

[Repealed by 48 & 49 Vict. c. 15, s. 17, and now superseded by the forms in schedule (I.) of the Registration Order, 1895.]

SCHEDULE (B.).

Forms for Cities and Boroughs.

[Forms 10 and 11 are repealed so far as they relate to overseers by the S. L. R. Act, 1891, and all the forms except those here set out are superseded by the forms in schedule 3 of the Registration Order, 1895.]

Schedules.

No. 5.

List of Freemen to be published by the Town Clerk.

The List of Freemen of the City [*or* Borough] of [*or* of], being a place sharing in the election with the City [*or* Borough] of entitled to vote in the Election of a Member [*or* Members] for the said City [*or* Borough].

Christian Name and Surname of each Freeman at full Length.	Place of his Abode.

No. 7.

Notice of Claim by Freemen to be given to the Town Clerk.

To the Town Clerk of the City [*or* Borough] of .

I hereby give you notice, that I claim to have my name inserted in the list made by you of persons entitled as Freemen to vote in the Election of a Member [*or* Members] to serve in Parliament for the City [*or* Borough] of and that my qualification is as Freeman of and that I reside in Street, in this City [*or* Borough, *or* as the case may be]. Dated this day of one thousand eight hundred and .

(Signed) J. D.

No. 9.

List of Claimants to be published by the Town Clerk.

The following Persons claim to have their Names inserted in the List of the Freemen of the City [*or* Borough] of [*or* of], being a Place sharing in the Election with the City [*or* Borough] of [, entitled to vote in the Election of a Member [*or* Members] for the said City [*or* Borough].

Christian Name and Surname of each Person, as in the Claim.	Place of his Abode.

No. 13.

The List of Persons objected to, to be published by the Town Clerks.

The following Persons have been objected to as not being entitled to have their Names retained on the List of the Freemen of the City [*or* Borough] of [*or* of being a Place sharing in the Election with the City [*or* Borough] of], entitled to vote in the Election of a Member [*or* Members] for the said City [*or* Borough].

Christian and Surname of each Person objected to.	Place of his Abode.

(Signed) A. B. {Town Clerk of the said City [*or* Borough *or* Place].

SCHEDULE (C.).

Forms for the City of London.

No. 1.

A List of such of the Freemen of London as are Liverymen of the Company of entitled to vote in the Election of Members for the City of London.

Christian Name and Surname of the Voter at full Length.	Street, Lane, or other Description of his Place of Abode.

(Signed) A. B., Clerk.

No. 2.

Notice of Claim to be given to the Secondaries of the City of London, and to the Clerks of the respective Livery Companies.

To the Secondaries of the City of London [*or* to the Clerk of the Company of].

I hereby give you notice, that I claim to have my name inserted in the List made by the Clerk of the Company of

Schedules.

[*or, in case of Notice to the Clerk, say,* made by you] of the Liverymen of the said Company, [*or, in case of Notice to the Clerk, say,* of the Liverymen of the Company of] entitled to vote in the Election of Members for the City of London.

Dated the day of

(Signed) A. B. {[*Place of Abode.*
Name of Company.]

No. 3.

List of Claimants to be published by the Secondaries of the City of London.

The following persons claim to have their names inserted in the List of Persons entitled to vote, as Freemen of the City of London and Liverymen of the several Companies herein specified, in the Election of Members for the City of London.

Christian Name and Surname of Claimants, as in the Claim.	Place of Abode.	Name of the Company.

Dated the day of

(Signed) A. B. } Secondaries of the City
C. D. } of London.

No. 4.

Notice of Objection to Parties inserted in the List of the Livery.

To Mr.

I hereby give you notice, that I object to your name being retained in the List of Persons entitled to vote, as Freemen of the City of London and Liverymen of the Company of in the Election of Members for the said City.

Dated the day of

(Signed) A. B. of [*Place of Abode*], on the List of Voters of .

No. 5.

Notice of Objection to be given to the Secondaries of the City of London, and to the Clerks of the respective Livery Companies.

To the Secondaries of the City of London [*or* to the Clerk of the Company of].

I hereby give you notice, that I object to the name of being retained in the List of Persons entitled to vote, as

Freemen of the City of London and Liverymen of the Company of in the Election of Members for the said City.
Dated this day of
(Signed) A. B. of [*Place of Abode*], on the List of Voters of .

Note.—If the list contains two or more persons of the same name, the notice should distinguish the person intended to be objected to.

No. 6.

The List of Persons objected to, to be published by the Secondaries of the City of London.

The following persons have been objected to as not entitled to have their names retained on the List of Persons entitled to vote, as Freemen of the City of London and Liverymen of the several Companies herein specified, in the Election of Members for the said City.

Christian and Surname of each Person objected to.	Place of his Abode.	Name of the Company.

Dated the day of
(Signed) A. B. } Secondaries of the
C. D. } City of London.

SCHEDULE (D.).

No. 1.

Table of Rates of Payment to be demanded and paid for any List or Copy of a List (other than a Register), where a payment is required and authorized by this Act.

For any List or Copy of a List containing any number of persons' names—

	s.	*d.*
Not exceeding 100 names	0	6
Exceeding 100 and not exceeding 200 ...	1	0
Exceeding 200 and not exceeding 300 ...	1	6
Exceeding 300 and not exceeding 400 ...	2	0
Exceeding 400	2	6

Schedules.

No. 2.

Table of Rates of Payment to be demanded and paid for any Copy of a Register or Part of any Register, where a payment is required and authorized by this Act.

For every Copy of any Register or any Part of any Register containing any number of persons' names—

	s.	d.
Not exceeding 1,000 names	1	0
Exceeding 1,000 and not exceeding 3,000 ...	2	6
Exceeding 3,000 and not exceeding 6,000 ...	5	0
Exceeding 6,000 and not exceeding 9,000 ...	7	6
Exceeding 9,000	10	0

SCIENTIFIC SOCIETIES ACT, 1843.

6 & 7 VICT. CHAP. 36.

An Act to exempt from County, Borough, Parochial, and other local Rates, Land and Buildings occupied by Scientific or Literary Societies. [28th July, 1843.]

[Preamble recited expediency of exempting certain societies from rates.]

Scientific, &c. societies, supported by voluntary contributions and dividing no profits, exempted from rates upon obtaining the certificate hereinafter mentioned.

[I.] No person or persons shall be assessed or rated, or liable to be assessed or rated, or liable to pay, to any county, borough, parochial, or other local rates or cesses, in respect of any land, houses, or buildings, or parts of houses, or buildings, belonging to any society instituted for purposes of science, literature, or the fine arts exclusively, either as tenant or as owner, and occupied by it for the transaction of its business, and for carrying into effect its purposes, provided that such society shall be supported wholly or in part by annual voluntary contributions, and shall not, and by its laws may not, make any dividend, gift, division, or bonus in money unto or between any of its members, and provided also that such society shall obtain the certificate of the barrister-at-law or Lord Advocate, as herein-after mentioned.

Sect. 1.

Note.

The exemption from rates under this section applies to rates imposed subsequently to the Act (*Reg.* v. *Phillips*, 8 Q. B. 745; 17 L. J. Q. B. 83; 12 Jur. 431).

The person exempt from a rate, as the occupier of premises belonging to a scientific or literary society, must, if assessed for such premises, contest the liability by appeal, and cannot bring an action for a levy made to enforce such rate not appealed against

(*Re Birmingham New Library*, or *Birmingham Churchwardens* v. *Shaw*, 10 Q. B. 868; 18 L. J. M. C. 89; 13 Jur. 357; 13 J. P. 395).

Sect. 1.

Note.

"INSTITUTED FOR PURPOSES OF SCIENCE, LITERATURE, OR THE FINE ARTS EXCLUSIVELY."

Institute of Civil Engineers.

"Purposes of science" means purposes of science in the abstract, and not the application of science to the purposes and in the interests of a particular profession such as that of civil engineers (*Reg.* v. *Institute of Civil Engineers*, 5 Q. B. D. 48; 49 L. J. M. C. 34; 42 L. T. 145; 44 J. P. 265). It is somewhat difficult to reconcile this case with that of the Royal Medical and Chirurgical Society of London, which was instituted for the cultivation and promotion of medicine and surgery and the branches of science connected therewith, and was held to be exempt (*Reg.* v. *Royal Medical Society*, 30 L. T. 133; 21 J. P. 789).

Birmingham News-room.

The Birmingham News-room is a society by which the periodical publications and newspapers of the day are taken in and supplied for the perusal of subscribers; share lists and advertisements of sales, &c., are laid on the table by subscribers and others for perusal; any individual (not personally objectionable) is permitted to become a subscriber, on complying with the rules of the society: the library contains several statistical and topographical works and directories for the use of commercial persons who are subscribers; the society is supported by the annual subscription of members, but one of the rules provides for the receipt of fees for notices and advertisements put up in the news-room, and the keeper thereof is to account for and dispose of the balance of such receipts as the committee may direct; no surplus of receipts above expenditure had ever arisen. *Held* not to be exempt under this section (*Reg.* v. *Phillips*, 8 Q. B. 745; 17 L. J. M. C. 83; 12 Jur. 431; S. P. *Reg.* v. *Gaskell*, 16 Q. B. 472; 21 L. J. M. C. 29).

Greenwich Society for the Acquisition and Diffusion of Useful Knowledge.

"The Greenwich Society for the Acquisition and Diffusion of Useful Knowledge," was originally established for those purposes only, but afterwards was in the habit of letting its lecture-hall for the purpose of meetings and exhibitions, &c., having no reference whatever to "science, literature, or the fine arts," and the sums received were applied to the purposes of the society, and formed about a fourth of their income. *Held* not to be exempt (*Purvis* v. *Traill*, 3 Exch. 444; 18 L. J. M. C. 57; 13 J. P. 219). A very similar case was decided in the same way (*Earl of Clarendon* v. *St. James', Westminster*, 10 C. B. 806; 20 L. J. M. C. 213; 15 J. P. 340).

Russell Institution.

The Russell Institution was held to be rateable, because besides the formation of a library and the delivering of lectures on literary and scientific subjects, one of the purposes of the institution was the establishment of a reading-room, provided with the best foreign and English journals and other periodical publications, and consequently it was not instituted for the purposes of science, literature, or the fine arts exclusively (*Russell Institution* v. *St. Giles and St. George*, 3 E. & B. 416; 23 L. J. M. C. 65; 18 Jur. 597; 22 L. T. 37; 18 J. P. 125; S. P. *Scott* v. *St. Martin's-in-the-Fields*, 5 E. & B. 558; 25 L. J. M. C. 42; 1 Jur. (N. S.) 1207). Upon the same ground the Cambridge Philosophical Society was held to be rateable to the poor (*Purchas* v. *Holy Sepulchre, Cambridge*, 4 E. & B. 156; 24 L. J. M. C. 9; 1 Jur. (N. S.) 304).

Cambridge Philosophical Society.

Zoological Society.

The Zoological Society was held not to be exempt, because,

"INSTITUTED FOR PURPOSES OF SCIENCE, LITERATURE, OR THE FINE ARTS EXCLUSIVELY"—*continued.*

Sect. 1.

Note.

although it tended to the advancement of science, yet science could not be considered exclusively as the object of the society, its great object appearing to be amusement and recreation (*Reg.* v. *Zoological Society*, 3 E. & B. 806; 23 L. J. M. C. 139; 18 Jur. 786; 23 L. T. 171; 18 J. P. 489).

United Service Institution.

The United Service Institution was held not to be exempt; for although in some respects established for the purposes of science, it was not exclusively so, but its chief object was to promote professional art, namely, the art of war (*Reg.* v. *Cockburn*, or *Reg.* v. *St. Martin's-in-the-Fields*, 16 Q. B. 480; 21 L. J. M. C. 53; 18 L. T. 302; 16 Jur. 335).

British and Foreign School Society.

The British and Foreign School Society was established for promoting the education of the labouring classes; a school was to be maintained by it to educate children for the supply of teachers to the inhabitants of all such parts of the British dominions, at home and abroad, as should be desirous of establishing schools on the British system; and a normal school formed a principal part of the institution; by the rules of the society also, no member of the committee was to receive any pecuniary advantage from the society, nor was any dividend or bonus, either in money or otherwise, to be made to any of the members; it was to be supported in part by voluntary contributions, but the teachers in the normal school and some others paid a weekly sum towards their board, which did not, however, amount to the cost of it, and no profit was made by the sale of books. *Held* not to be exempt, as, being partly for the education of children, it could not be said to be an institution for the purposes of science, literature, and the fine arts exclusively (*Reg.* v. *Pocock*, 8 Q. B. 729; 15 L. J. M. C. 133; 10 Jur. 662).

Kneller Hall.

So Kneller Hall, a Government normal school, was held not to be exempt, on the ground that it was instituted for purposes of education (*Reg.* v. *Temple*, or *Reg.* v. *Kneller Hall*, 22 L. J. M. C. 129; 31 L. T. 212).

Linnæan Society.

The Linnæan Society was incorporated for the cultivation of the science of natural philosophy, and every kind of improvement in the arts and sciences; it was managed by a president and some of the fellows; at the society's meetings papers on natural history were read and discussed, and some of them printed in the society's transactions; copies of the transactions were circulated amongst the fellows and given to other institutions, and copies were also sold for the purpose of defraying the cost of printing and publication; the society was supported in part by annual contributions paid by some of the fellows, and sums paid by others of the fellows in lieu of contributions; two of the rooms occupied by the society were used as a dwelling for the clerk, librarian, and housekeeper of the society, and the porter of the society also resided on the premises: these officers paid no rent, but the value of the use of their rooms was taken into account in the amount of their salaries; the remainder of the apartments were entirely appropriated to a museum, library, and other rooms suitable and necessary for the purposes of the society: part of the house was underlet to a tenant. *Held* that the society was exempt from being rated; they were established for the purposes of science exclusively, and were supported in part by voluntary contributions within the meaning of the statute; that the residence of the librarian, &c., on the premises being subsidiary to

"INSTITUTED FOR PURPOSES OF SCIENCE, LITERATURE, OR THE FINE ARTS EXCLUSIVELY"—*continued.*

Sect. 1.

Note.

and necessary for the purposes of the society, did not deprive them of their exemption, nor did the mere circumstance of the society underletting part of the premises deprive them of it (*Linnæan Society* v. *St. Ann, Westminster*, 3 E. & B. 793; 23 L. J. M. C. 148; 18 Jur. 859; 23 L. T. 186; 18 J. P. 504).

Royal College of Music.

The Royal College of Music was created and incorporated by royal charter, for the advancement of the art of music by means of a teaching and examining body conferring degrees and certificates of proficiency, for the promotion and supervision of musical instruction conducive to the cultivation and dissemination of the art of music, and, generally, for the encouragement and promotion of the cultivation of music as an art. The college erected a building on land demised to them for a long term by a lease containing a stipulation that the building should be used for the purposes of the charter only, and it was so occupied and used. The college was supported in part by annual voluntary contributions. An amendment of the charter prohibited any dividend, gift, division, or bonus in money, to the members. *Held* that the college was a society instituted for purposes of the fine arts exclusively, and was entitled to exemption (*Royal College of Music* v. *St. Margaret's and St. John's, Westminster*, [1898] 1 Q. B. 809; 67 L. J. Q. B. 80).

Musical society.

But where a musical society was established at Manchester by subscription, most of the vocal and instrumental performers at the concerts being paid out of the funds of the society; the subscribers were not only admitted to these concerts gratis, but had the privilege of giving tickets to ladies generally, and to gentlemen under certain restrictions. *Held* that this was nothing more than a musical club, the primary object of which was the gratification and amusement of the members and their families, and was therefore not entitled to exemption (*Reg.* v. *Brandt*, 16 Q. B. 462; 20 L. J. M. C. 119; 15 Jur. 233; 15 J. P. 191).

"SUPPORTED WHOLLY OR IN PART BY ANNUAL VOLUNTARY CONTRIBUTIONS."

Art Union of London.

"Voluntary," as here used, does not mean non-compulsory; it means gratuitous, without any money or other merely material consideration; and a society is not "supported by voluntary contributions" within the meaning of this section, when it returns to every contributor the equivalent of his contribution in money's worth. So that a fine art society whose members received every year an engraving of a picture, and also had the chance of winning a prize in an annual lottery, was held not to be exempt from rateability (*Savoy Overseers* v. *Art Union of London*, [1896] A. C. 296; 65 L. J. M. C. 161; 74 L. T. 497; 54 W. R. 34; 60 J. P. 660). This case, decided by the House of Lords, must be taken to overrule all cases in which exemption from rating has been granted to societies whose members derive some merely material benefit in return for their subscription, of which the two following are examples:—

Birmingham Library.

A public library was established at Birmingham, and parties subscribing two guineas in advance, and paying 20*s.* a year, were entitled to the use of the books in the library, or to take them home to read; there was no actual contract to pay this annual sum, but

"SUPPORTED WHOLLY OR IN PART BY ANNUAL VOLUNTARY CONTRIBUTIONS"—*continued.*

Sect. 1.

Note.

if the subscribers did not pay it, they ceased to have the use of the library. The court held these to be voluntary contributions within the meaning of this section so as to exempt the library from poor rate (*Re Birmingham New Library*, or *Birmingham Churchwardens* v. *Shaw*, 10 Q. B. 868; 18 L. J. M. C. 89; 13 Jur. 357; 13 J. P. 395).

Bradford Library.

The Bradford Library and Literary Society were owners and occupiers of a library and reading-room, the books consisting of the standard authors, of reviews, magazines, pamphlets and novels; the number of members was limited to 600, each of whom paid a subscription of eight guineas, and an annual payment of one guinea, for which they had the exclusive privilege of using the library and reading-room, of having a certain number of books at their own houses and of each introducing one non-resident person to the library; no bonus or division of money among the members was allowed by the laws of the society, the funds being all applied to the maintenance of the library, and to objects immediately connected with it. The court held that the annual contributions must be deemed voluntary, as the original subscription was voluntary (*Reg.* v. *Bradford Library*, or *Bradford Library* v. *Bradford*, 1 E. & E. 88; 28 L. J. M. C. 72; 5 Jur. (N. S.) 513; 32 L. T. 105).

Sub-letting part of premises.

The fact that the society increases its funds by sub-letting part of the premises to tenants who are rated in respect of such part does not deprive the society of the benefit of the statute in respect of the part of the premises occupied by the society (*Reg.* v. *Manchester*, 16 Q. B. 449; 20 L. J. M. C. 119; 15 Jur. 219; *Linnæan Society* v. *St. Ann, Westminster*, *supra*, p. 650). But if the society lets its premises generally for other than scientific, &c., purposes, it is liable to be rated, although the funds derived from the letting are applied to the purposes of the society (*Purvis* v. *Traill*, 3 Exch. 444; 18 L. J. M. C. 57; 13 J. P. 219).

NO BONUS OR DIVIDEND.

Any division or bonus in money amongst the members must be expressly prohibited by its laws. It is not sufficient that no dividend has in fact been made, and that making such a dividend would be altogether hostile to the constitution and spirit of the society—it is necessary that it should have among its laws an express provision prohibiting the making of any dividend or bonus among its members (*Reg.* v. *Jones*, 8 Q. B. 719; 15 L. J. M. C. 129; 10 Jur. 613). If this provision exists, the fact that the property of the society is held by the members in shares, which are assignable and fluctuate in value, does not deprive the society of the benefit of the statute (*Liverpool Library* v. *Liverpool*, 5 H. & N. 526; 29 L. J. M. C. 221; 2 L. T. (N. S.) 325; 8 W. R. 498).

CERTIFICATE OF BARRISTER.

The certificate of the barrister must be obtained before any title to exemption can be acquired. The certificate, however, is not conclusive proof of the requisites of the statute having been complied with; it is merely one of the several conditions precedent, which must all concur to give a right of exemption (*Reg.* v. *Phillips*, 8 Q. B. 745; 17 L. J. M. C. 83; 12 Jur. 431; *supra*, p. 649).

Sect. 2.

Such societies to cause three copies of their rules of management to be submitted to the barrister or person appointed to certify the rules of friendly societies, who shall certify thereon that society is entitled to exemption, or state his ground for withholding his certificate.

One certified copy to be returned to the society; one to be retained by the barrister; and the third transmitted to the clerk of the peace, for confirmation at sessions, and to be deposited.

II. Provided always, that before any society shall be entitled to the benefit of this Act such society shall cause three copies of all laws, rules, and regulations for the management thereof, signed by the president or other chief officer and three members of the council or committee of management, and countersigned by the clerk or secretary of such society, to be submitted, in England, Wales, and Berwick-upon-Tweed to the barrister-at-law for the time being appointed to certify the rules of friendly societies there, and in Scotland to the Lord Advocate, or any depute appointed by him to certify the rules of friendly societies there, and in Ireland to the barrister for the time being appointed to certify the rules of friendly societies there, for the purpose of ascertaining whether such society is entitled to the benefit of this Act; and such barrister or Lord Advocate, as the case may be, shall give a certificate on each of the said copies that the society so applying is entitled to the benefit of this Act, or shall state in writing the grounds on which such certificate is withheld; and one of such copies, when certified by such barrister or Lord Advocate, shall be returned to the society, another copy shall be retained by such barrister or Lord Advocate, and the other of such copies shall be transmitted by such barrister or Lord Advocate to the clerk of the peace for the borough or county where the land or buildings of such society in respect of which such exemption is claimed shall be situated, and shall by him be laid before the recorder or justices for such borough or county at the general quarter sessions, or adjournment thereof, held next after the time when such copy shall have been so certified and transmitted to him as aforesaid and the recorder or justices then and there present are hereby authorized and required, without motion, to allow and confirm the same; and such copy shall be filed by such clerk of the peace with the rolls of the sessions of the peace in his custody, without fee or reward.

Certain alterations made in the rules to be certified and deposited in like manner.

In case of refusal to certify, society to cease to be entitled to exemption.

III. If the laws, rules, and regulations of any such society shall be altered, so as to affect or relate to the property or constitution of such society, such alterations shall, within one calendar month after the same shall have been made, be submitted to such barrister or Lord Advocate, and such barrister or Lord Advocate shall certify as aforesaid; and such rules, when so certified, shall be filed with the clerk of the peace as aforesaid; and in the meantime such society shall be entitled to the benefit of this Act, as if no such alterations had been made: Provided always, that if the said barrister or Lord Advocate shall refuse to certify, that then, subject to such appeal as is herein-after provided, the said society shall cease to be entitled to the benefit of this Act from the time when such alterations shall come into operation.

Sect. 2. Note.

For the appointment and qualifications of the barrister-at-law to certify the rules of friendly societies in England see the Friendly Societies Act, 1896 (59 & 60 Vict. c. 25), s. 1.

Sect. 4.

Fee to barrister, &c. to be paid with expense of transmission of rules, by society.

IV. Provided always, that the fee payable to such barrister or Lord Advocate for perusing the laws, rules, and regulations of each society, or the alterations made therein, and giving such certificate or statement as aforesaid, shall not at any one time exceed the sum of one guinea, which together with the expense of transmitting the rules to and from the said barrister or Lord Advocate, shall be defrayed by each society respectively.

Reference to quarter sessions, where certificate is refused.

V. Provided always, that in case any such barrister or Lord Advocate shall refuse to certify that any such society is entitled to the benefit of this Act, it shall then be lawful for any such society to submit the laws, rules, and regulations thereof to the court of quarter sessions for the borough or county where the land or buildings of the society shall be situated, together with the reasons so assigned by the said barrister or Lord Advocate as aforesaid; and the recorder or justices at such quarter sessions shall and may, if he or they think fit, order the same rules to be filed, notwithstanding such refusal as aforesaid; and such filing shall have the same effect as if the said barrister or Lord Advocate had certified as aforesaid.

Appeal to quarter sessions by any person assessed to any rate from which any society is exempted against decision of barrister, &c. granting certificate.

VI. Provided also, that any person or persons assessed to any rate from which any society shall be exempted by this Act may appeal from the decision of the said barrister or Lord Advocate in granting such certificate as aforesaid to the said court of quarter sessions within four calendar months next after the first assessment of such rate made after such certificate shall have been filed as aforesaid, or within four calendar months next after the first assessment of such rate made after such exemption shall have been claimed by such society, such appellant first giving to the clerk or secretary of the society in question, twenty-one days previously to the sitting of the said court, notice in writing of his intention to bring such appeal, together with a statement in writing of the grounds thereof, and within four days after such notice entering into a recognizance before some justice, with two sufficient sureties, to try such appeal at and abide the order of and pay such costs as shall be awarded by the recorder or justices at such quarter sessions; and at such quarter sessions such recorder or justices

Sect. 6.

Note.

Mandamus, and not *certiorari*, is the proper remedy in the case of an erroneous judgment of the sessions, annulling, on a preliminary technical objection, the barrister's certificate under this Act, that a society is entitled to exemption from rates (*Reg.* v. *Stacey*, 14 Q. B. 789; 14 J. P. 415).

Under this section an appeal may be entered against the certificate of the barrister, which allows the exemption, within four months after the first assessment made after formal notice of the granting and filing of the certificate has been given to those who made the rate, though such notice is given some months after filing the certificate (*Reg.* v. *Pocock*, 8 Q. B. 729; 15 L. J. M. C. 132; 10 Jur. 662; 10 J. P. 551).

shall, on its being proved that such notice and statement have been given as aforesaid, proceed to hear such appeal, according to the grounds set forth in such statement, and not otherwise, and if the certificate of the said barrister or Lord Advocate shall appear to him or them to have been granted contrary to the provisions of this Act, shall and may annul the same, and shall and may, according to their discretion, award such costs to the party appealing or appealed against as he or they shall think proper, and his or their determination concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever. Sect. 6.

COUNTY RATES ACT, 1844.

7 & 8 VICT. CHAP. 33.*

An Act for facilitating the Collection of County Rates, and for Relieving High Constables from Attendance at Quarter Sessions in certain Cases, and from certain other Duties.
[19th July, 1844.]

[Preamble recited that boards of guardians were a more convenient authority than high constables for collecting county, police and other rates authorized to be levied in counties.]

[I.] . . . as often as the justices of the peace within the respective limits of their commissions in England have made a county rate or a police rate, or any other rate which may by law be raised in like manner as county rates, or any two or more such rates, such justices assembled at their general or quarter sessions, or at any adjournment thereof, shall order precepts in the form shown in the schedule annexed to this Act, or as near thereto as may be, to be issued to the guardians of every union of parishes, of which union any parish is situate within such limits, stating the sum or sums assessed and charged for each such rate on each parish in the union, the whole of which parish is situate within such limits, and to the guardians of every single parish situate within such limits, stating the sum or sums assessed and charged on such parish for each such rate, and requiring the guardians of such union or parish respectively, within such time as may be limited within such precepts, to cause the aggregate of the said several sums so stated to be paid by them, out of the monies held by them on behalf of each such parish, to the treasurer of the

Justices of the peace shall send precepts in form in schedule directly to guardians of unions or single parishes for the payment of police rates, &c.

* This Act is repealed so far as relates to county rates by the S. L. R. Act, 1861.

For the manner in which guardians raise monies for the relief of the poor by contribution orders on the overseers of the parishes in the union, see Archbold's Poor Law, 15th ed., pp. 368—374. Sect. 1. Note.

Sect. 1.

county or place for which such justices act, and may cause such precepts to be sent by post, or otherwise, to such guardians; and such precepts shall have force in every such union so far as concerns such parishes as are within the limits of the commission of the said justices, notwithstanding that the place of meeting of such guardians may not be situated within such limits, and without being indorsed with the signature of any justice of the peace having ordinary jurisdiction in the place of meeting of the guardians; and such guardians shall raise the monies required by such precepts to be paid in like manner as the money required by such guardians for the relief of the poor, and shall pay such monies at the time limited and in the manner prescribed by such precepts; and if the treasurer of such guardians, or any person on his or their behalf, tender to the treasurer of the county or place for which such justices act the aggregate of the said several sums, or if he so tender the whole sum assessed on any such parish or parishes in respect of any such rate or rates, together with a copy of such precept in which are specified the parish or parishes, and the rate or rates, in respect of which the same is so tendered, the treasurer of the county shall receive the sum so tendered, notwithstanding that the sums required to be paid on behalf of other of such parishes or of other of such rates be not then tendered, and shall give a receipt for the sum or sums received by him accordingly, but he shall not receive any sum on behalf of any such parish less than the whole of the sum assessed and charged thereon in respect of one such rate: and the receipt of the treasurer of such county or place shall be a good discharge for the payment of the sums specified in any such precept or of any of them.

Guardians to pay such rates.

County treasurer to receive the same.

If the guardians fail to pay such rates, the justices may issue warrants to the overseers of parishes, &c. to pay the same with an addition of 1*s.* in every 10*s.*

II. In case guardians do not pay within the time limited in such precept the sum or sums of money therein required to be paid on behalf of any parish the said justices assembled as aforesaid may cause to be issued and sent, by post or otherwise, to the overseers of the poor of such parish, or to the petty constable or peace officer, or other person or persons empowered in any place to rate and levy the monies assessed as such county, police, or other rate, warrants to collect and pay to the treasurer of the county or place in which such justices act, within a time to be named and limited in such warrants, the rate or rates charged on such parish or place respectively, together with an addition to such rate or rates in the proportion of one shilling to every ten; and such additional sum shall be applied and disposed of in like manner as the county rate; and such overseers of the poor, petty constables, peace officers, or other persons may reimburse themselves, as well for such additional sums as for the original amount of rate or rates, out of the monies which they are respectively empowered to rate and levy for the purpose of such county, police, or other rate, but shall not receive or take from the county rate, or any other rate, any allowance or

Overseers, &c. may reimburse themselves for the sums paid out of the monies levied by them for purposes of such rates.

compensation for their trouble or expenses incurred in collecting, levying, or paying such county, police, or other rate. Sect. 2.

III. If any overseer, petty constable, peace officer, or other person as aforesaid refuse, make default, or neglect to pay to the treasurer of the county or place, within the time limited as aforesaid, the sum or sums of money specified in the said warrants, and if the clerk of the peace or treasurer of the county or place make complaint thereof, then any justice of the peace of such county or place may by warrant under his hand levy the same by distress and sale of the goods of the offender; and the justices assembled as aforesaid may pay to any clerk, constable, messenger, or other person who may have been employed in making such complaint, or in obtaining, drawing, or executing such warrant, such reasonable compensation out of the county stock as to the said justices may seem fit.

If the overseers, &c. fail to pay the justices may, on complaint of clerk of the peace, &c. levy the rate by distress and sale of goods of offender; and pay compensation to complainant, &c. out of county stock.

IV. In every case where any parish comprised in an union has, on or before the day on which any precept as aforesaid should be obeyed, contributed money sufficient to enable the guardians of the union to pay any sum or sums required by such precept in respect of such parish, as well as to provide for the immediate relief of the poor of such parish, and to satisfy all other obligations of the said guardians in respect of such parish in force on that day, and where, through the default of any other parish or parishes in the same union in contributing money to such guardians or through the neglect of such guardians to demand sufficient contributions from any other parish or parishes in the same union, the said guardians have applied the money of such first-mentioned parish to the use of such other parish or parishes, and are thereby rendered unable to pay any money so required by such precept on behalf of such first-mentioned parish, and such parish is by reason thereof compelled to pay the additional sum of one shilling in every ten as herein-before provided, in every such case the guardians of the union shall reimburse such first-mentioned parish such additional sum, and all costs incurred by reason of the premises, out of the monies of such other parish or parishes which may next thereafter come into the hands of such guardians; and in case more than one parish be in default as aforesaid the said guardians shall charge such additional sum and costs to every such parish, in proportion to the amount of the deficiency of the contribution of each parish respectively on the day on which the said precept should have been obeyed.

Parishes not in arrear with contributions, whose contributions are not paid over; but are applied for the use of those parishes which are in arrear, so that they have to pay the additional 1*s.* in every 10*s.*, shall be reimbursed by those parishes which are in arrear.

V. In the case of every parish not comprised within any union, and in which the laws for the relief of the poor are not administered by a board of guardians, and in the case of every

Justices may issue warrants for payment to the over-

The words omitted in this section are repealed by the S. L. R. Act (No. 2), 1874, in consequence of the provisions of the High Constables Act, 1869 (32 & 33 Vict. c. 47), s. 4. Sect. 5. Note.

Sect. 5.

seers of parishes, &c. not comprised in unions, or only partly within the jurisdiction of the justices, and enforce payment from them.

parish comprised in a union the guardians of which are not empowered to relieve the poor, and in the case of any parish comprised within a union, or in which the laws for the relief of the poor are administered by a board of guardians, of which parish a part only is situated within the limits of the commission of any justices, for which part no separate rate is levied for the relief of the poor, and in the case of every place not maintaining its own poor, but liable to the payment of county, police, or other rates as aforesaid, the justices assembled as aforesaid may . . . issue their warrant to the overseers, petty constables, peace officers, or other persons empowered by law to rate and levy county, police, or other rates in such parish, part of a parish, or place, to pay to the county treasurer, or to transmit to him in such manner as the said justices may from time to time direct, within a time limited in such warrant, the county rate, police rate, or other rate or rates as aforesaid charged on them, without the agency or intervention of any high constable, and such justices may cause such warrant to be sent by post or otherwise; and in case the said overseers, petty constable, peace officer, or other person refuse or neglect to pay any such rate within the time limited in such warrant the same remedy may be had against them as now by law exists against overseers neglecting to pay on the warrant of the high constable.

Sending of precepts, &c. by post, and delivery thereof.

VI. Whenever precepts or warrants as provided by this Act are to be sent by post, the clerk of the peace shall send every such precept or warrant by post as a registered letter, according to the regulations of the Postmaster-General in force for the time being in that behalf; and every precept or warrant delivered or tendered as a registered letter at the address of the person to whom it is addressed, whether a receipt be given for the same or not, shall be deemed to have been served on the person to whom the same was so delivered or tendered; and if delivered or tendered to the clerk or other like officer acting for any guardians, shall be deemed to have been served on the whole of such guardians; and if delivered or tendered to any one overseer of a parish, shall be deemed to have been served on the whole of the overseers of such parish.

Where special sessions are required to be holden, notice of the same sent to each justice by post shall be sufficient.

VII. [*Recital.*] In all cases in which special sessions are required to be holden for any division of any county or place, if notice of the intended holding of such special sessions be signed by any one justice of the peace usually acting within such division, and if a copy of such notice be sent by post a reasonable time before the day on which such sessions are to be holden addressed to each justice of the peace resident and usually acting within such division at his residence in such

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Sect. 7. Note.

By the High Constables Act, 1869 (32 & 33 Vict. c. 47), s. 3, it is made the duty of the clerks to justices to send out notices of holding special or other sessions.

division, such notice shall be deemed to have been duly given to or served on each such justice of the peace, any law or custom to the contrary notwithstanding. Sect. 7.

VIII. [*Recital.*] Where high constables have heretofore been usually appointed at courts of quarter sessions the high constables of such places shall hereafter be appointed by such justices as may be present at the special sessions of their division held for the purpose of hearing appeals against the rates of the several parishes in such division, or at any adjournment thereof; but if the hundred or other like division of the county for which any high constable is to be appointed be not included within the limits of any one division of the county for which such special sessions are held, then the justices of the peace for the county assembled at general or quarter sessions, or any adjournment thereof, may from time to time determine the division of the special sessions at which such high constable is to be appointed, and shall cause notice of such determination to be sent, by post or otherwise, to the high constable for the time being of such hundred or other like division; and every high constable, whether appointed at a special sessions, or at an adjournment thereof, or at a court leet, or any other special court, shall, if present at the time of his being appointed, then and there take his oath for the due execution of his office, and if otherwise, he shall forthwith, on the receipt of his appointment, go before the next or some other justice of the peace for the county in which he resides, and then and there take his said oath of office, and he shall not, in virtue of his office of high constable, be required to take any other oath than the said oath for the due execution of his office.

High constables heretofore appointed at quarter sessions to be appointed at special sessions.

High constables to take only the oath for due execution of their office.

IX. In the construction of this Act the word "parish" shall be construed to include any township, vill, or place maintaining its own poor, whether parochial or extra-parochial, or any part of a parish, township, vill, or other place, for which a separate poor rate may be made; the word "union" shall be construed to mean and include any number of parishes united under the Poor Law Amendment Act, 1834, . . . or under any local Act; and the word "guardians" shall mean and include any board of guardians acting under the provisions of the Poor Law Amendment Act, 1834, and empowered to relieve the poor of any parish or union, and the visitors, guardians, directors, managers, acting guardians, vestrymen, or other officers in a union appointed to act in the ordering of relief of the poor from the poor rate under any general or local Act of Parliament; and the word "hundred" shall mean and include any hundred, wapentake, ward, or other district in the nature of a hundred, by whatever name denominated.

Construction of the words "parish,"

"union,"

4 & 5 Will. 4, c. 76,

"guardians."

"Hundred."

See now the High Constables Act, 1869 (32 & 33 Vict. c. 47), ss. 2, 5, as to not filling up vacancies in the office of high constable. Sect. 8. Note.

POOR LAW AMENDMENT ACT, 1844.

7 & 8 VICT. CHAP. 101.*

An Act for the further Amendment of the Laws relating to the Poor in England. [9th August, 1844.]

[Preamble recited 4 & 5 Will. 4, c. 76.]

[Sect. 1. *Repealing previous enactments for making orders in bastardy:* Repealed by the S. L. R. Act (No. 2), 1874.]

[Sect. 2. *Providing that any single woman being with child, or who may be delivered of a bastard child, may apply to justices in petty sessions for a summons against the putative father:* Repealed by the Bastardy Law Amendment Act, 1872 (35 & 36 Vict. c. 65), s. 2; and replaced by sect. 3 of that Act.]

[Sect. 3. *Providing that justices in petty sessions may on hearing of the summons make an order for maintenance against the putative father:* Repealed by the Bastardy Law Amendment Act, 1872 (35 & 36 Vict. c. 65), s. 2; and replaced by sect. 3 of that Act.]

Applications to sessions to be made within forty days after service of summons on putative father.

IV. The justices in petty sessions as aforesaid may adjourn the hearing of the case as often as to them may seem fit; but no such order shall be made unless applied for at such petty sessions within the space of forty days from the service of the summons after the birth of the bastard child on the person alleged to be the father of such bastard child; and . . . it shall be lawful for such putative father to appeal to the general quarter sessions of the peace . . .

Money under the order to be paid to the

V. All money payable under any order as aforesaid shall be due and payable to the mother of the bastard child in respect

* Throughout this Act for "Poor Law Commissioners" now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 4. Note.

Part of this section as to notice of appeal, and the sessions to hear the appeal, is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), being replaced by the S. J. Act, 1879 (42 & 43 Vict. c. 49), ss. 31, 54, as amended by sect. 6 of the S. J. Act, 1884.

Since the passing of the latter Act appeals in bastardy can only be brought subject to the conditions and regulations contained in the S. J. Act, 1879, and the notice of appeal must therefore state the grounds of appeal as required by sect. 31 (2) of that Act (*Reg.* v. *Shingler*, 17 Q. B. D. 49; 55 L. J. M. C. 147; 54 L. T. 759; 51 J. P. 152).

Sect. 5. Note.

A proviso to this section, limiting the time during which a bastardy order should be in force, was repealed by the Bastardy Law Amendment Act, 1872 (35 & 36 Vict. c. 65), s. 2.

See further, as to the custody of illegitimate children, the Custody of Children Act, 1891 (54 & 55 Vict. c. 3).

of such time and so long as she lives and is of sound mind, and is not in any gaol or prison, or under sentence of transportation; and after the death of the mother of such bastard child, or whilst such mother is of unsound mind, or confined in any gaol or prison, or under sentence of transportation, any two justices may, if they see fit, by order under their hands and seals from time to time appoint some person who, with his own consent, shall have the custody of such bastard child, so long as such bastard child is not chargeable to any parish or union, and any two such justices may revoke the appointment of such person, and appoint another person in his stead; and every person so appointed to have the custody of a bastard child shall, so long as such child is not chargeable to any parish or union, be empowered to make application for the recovery of all payments becoming due under the order of the court of petty session as aforesaid, in the same manner as the mother of such bastard child might have done; and the clerk to the justices making any order on the putative father of a bastard child, or appointing any person to have the custody of such child, as hereinbefore provided, shall as soon as may be send by post or otherwise a duplicate of such order or appointment, signed by such clerk, to the clerk of the guardians of the union or parish in which the mother of such bastard child resided at the time of making such order or appointment: . . .

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mother or to a person appointed by the justices.

VI. Every woman neglecting to maintain her bastard child, being able wholly or in part so to do, whereby such child becomes chargeable to any parish or union, shall be punishable as an idle and disorderly person, under the provisions of the Vagrancy Act, 1824; and every woman so neglecting to maintain her bastard child, after having been once before convicted of such offence, and every woman deserting her bastard child, whereby such bastard child becomes chargeable to any parish or union, shall be punishable as a rogue and vagabond, under the provisions of the said last-recited Act.

Mother punishable for neglect or desertion of her bastard child under 5 Geo. 4, c. 83.

VII. . . . after the death of such mother, or if such mother be incapacitated as aforesaid, so often as any bastard child for

In case bastard becomes chargeable to

Sect. 6.

Note.

As to maintenance by the mother and the settlement of an illegitimate child until the age of sixteen, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 71; as to the emancipation of an illegitimate child at the age of sixteen, see the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 35.

Sect. 7.

Note.

The early part of this section, providing that no parish officer should be appointed to have the custody of, or receive money on account of, a bastard child, is repealed by the Bastardy Law Amendment Act, 1872 (35 & 36 Vict. c. 65), s. 2.

If the bastard child becomes chargeable during the lifetime of the mother the guardians should make application under sect. 7 of

Sect. 7.

parish, &c. after death or incapacity of mother, guardians or overseers may make application for enforcement of order.

Payments to be made to person appointed by justices.

whose maintenance such order of petty sessions has been made becomes chargeable to any parish or union by the neglect of the putative father to make the payments due under the orders of justices, then and in such case it shall be lawful for any board of guardians of an union or parish, or if there be no such board of guardians for the overseers of any parish or place, to make such application for the enforcement of the order as might have been made by the mother of such bastard child if alive; but all payments for the maintenance of such child made in pursuance of such application shall be made to some person to be from time to time appointed by the justices as herein-before provided, and on condition that such bastard child shall cease to be chargeable to such parish or union.

Penalties on officers promoting marriage by threat of application to sessions, and on person appointed misapplying monies, or maltreating bastard.

VIII. If any officer of a union, parish, or place endeavour to induce any person to contract a marriage by threat or promise respecting any application to be made or any order to be enforced with respect to the maintenance of any bastard child, such officer shall be guilty of a misdemeanour; and every person having the custody of any bastard child under any order of justices, as herein-before provided, who may misapply monies paid by the putative father for the support of such child, or may withhold proper nourishment from such child, or otherwise abuse and maltreat such child, shall, on conviction before any two justices, forfeit and pay a sum not exceeding ten pounds.

[Sect. 9. *As to existing orders:* Repealed by the S. L. R. Act (No. 2), 1874.]

[Sect. 10. *As to orders made by justices acting in two adjoining counties:* Repealed by the S. L. R. Act (No. 2), 1874.]

[Sect. 11. *Annual return of summonses to be made to clerks of peace:* Repealed by 21 & 22 Vict. c. 67, s. 4.]

Poor Law Commissioners to

XII. The Poor Law Commissioners may, by order under their hands and seal, prescribe the duties of the masters to whom

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Sect. 7. Note.

35 & 36 Vict. c. 65, if an order has previously been obtained by the mother; and under sect. 5 of 36 & 37 Vict. c. 9, if no order has been so obtained. As the mother is in all cases a necessary witness for the purpose of obtaining an original order, no such order can be obtained by the guardians after the death of the mother (*Reg.* v. *Armitage*, L. R. 7 Q. B. 773; 42 L. J. M. C. 15; 27 L. T. 41; 20 W. R. 1015; S. C. *Jessop* v. *Brierly*, 36 J. P. 488).

Sect. 12. Note.

The certification of indentures of parish apprentices by justices was required by sect. 61 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76).

The binding of parish apprentices was sanctioned and enjoined upon churchwardens and overseers by 43 Eliz. c. 2, s. 3, subject to

poor children may be apprenticed, and the terms and conditions to be inserted in the indentures by which such children may be so bound as apprentices; and every master of such apprentice who wilfully refuses or neglects to perform any of such terms or conditions so inserted in any such indenture shall be liable, upon conviction thereof before any two justices, to forfeit any sum not exceeding twenty pounds; and . . . no poor child shall be bound apprentice by the overseers of any parish included in any such union or subject to a board of guardians under the provisions of the first-recited Act, but it shall be lawful for the guardians of such union or parish respectively to bind any such poor child to be an apprentice, and in such case the indentures of apprenticeship shall be executed by the said guardians, and shall not need to be allowed, assented to, or executed by any justice or justices of the peace, and the guardians shall have all the powers for binding or assigning any such apprentice which are now possessed by overseers, and shall cause all apprentices so bound or assigned by them to be registered by their clerk according to the form prescribed by the Parish Apprentices Act, 1802, so far as the same may be applicable to such binding or assignment: Provided always, that nothing herein contained shall directly or indirectly interfere with the provisions of any Act of Parliament relating to apprentices to be bound to the sea service.

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prescribe the duties of masters of poor apprentices, and masters neglecting to fulfil them to be liable to penalty.

Guardians to bind poor children apprentices instead of overseers. Allowance by justices not required.

Registration under 42 Geo. 3, c. 46.

Proviso as to apprenticeship to sea service.

XIII. So much . . . of any . . . Act of Parliament, whether general or local, as compels any person to receive any poor child as an apprentice, shall be and is hereby repealed.

Compulsory apprenticeship abolished.

Sect. 12.

Note.

the assent of two justices of the peace, and the practice was regulated by frequent subsequent statutes. The powers possessed by the guardians and the incidents of the apprenticeship now depend partly upon the statutes beginning with 43 Eliz. c. 2, and partly upon the General Consolidated Order, July 24th, 1847, and a General Order, February 15th, 1898. The statutes which are not implicitly repealed by this and the following section nor superseded by the General Orders are: The Poor Relief Act, 1601 (43 Eliz. c. 2), s. 3; the Parish Apprentices Act, 1792 (32 Geo. 3, c. 57); the Parish Apprentices Act, 1802 (42 Geo. 3, c. 46); the Parish Apprentices Act, 1816 (56 Geo. 3, c. 139); the Poor Law (Apprentices) Act, 1851 (14 & 15 Vict. c. 11), and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 33; but the powers conferred upon overseers by those Acts are now to be exercised by guardians. Apprenticeship to the sea service is regulated, in certain special particulars, by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 67, and the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), ss. 106, 107, 393 (3), and Part IV.

Sect. 13.

Note.

So much of this section as specifically mentioned 43 Eliz. c. 2, and 8 & 9 Will. 3, c. 3, was repealed by the S. L. R. Act (No. 2), 1874.

Sect. 14.

Owners of property and ratepayers to vote according to the scale herein set forth.

XIV. [*Recital and repeal of so much of* 4 & 5 *Will.* 4, *c.* 76, *s.* 40, *as relates to the number and proportion of votes of owners and ratepayers.*] In all cases in which by the said Act, or by any Act amending or extending the same, owners of property and ratepayers are entitled to vote, every owner of property and ratepayer shall have respectively the same number and proportion of votes, according to the scale following; (that is to say,) if the property in respect of which he is entitled to vote be rated upon a rateable value of less than fifty pounds, he shall have one vote; if such rateable value amount to fifty pounds and be less than one hundred pounds, he shall have two votes; if it amount to one hundred pounds and be less than one hundred and fifty pounds, he shall have three votes; if it amount to one hundred and fifty pounds and be less than two hundred pounds, he shall have four votes; if it amount to two hundred pounds and be less than two hundred and fifty pounds, he shall have five votes; and if it amount to or exceed two hundred and fifty pounds, he shall have six votes.

Regulations as to votes of owners;

XV. No owner of property shall be entitled to vote as such, under the provisions of the said recited Act, either in person or proxy, during the year following the twenty-fifth day of March in any year, unless before the first day of February next preceding such twenty-fifth day of March he had given to the overseers the statement required by the said Act, signed by him, nor unless such statement contain a description of the nature of the interest or estate he may have in such property, and a statement of the amount of all rent service (if any) which he may receive or pay in respect thereof, and of the persons from whom he may receive or to whom he may pay such rent service; and no person shall be entitled to vote as proxy until fourteen days after he

and as to proxies.

Sect. 14. Note.

The early part of this section was repealed by the S. L. R. Act (No. 2), 1874.

Acts amending or extending 4 & 5 Will. 4, c. 76, by which owners of property and ratepayers are entitled to vote are: The Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 3; the Poor Relief (Loans) Act, 1838 (1 & 2 Vict. c. 25), s. 2; and the Parish Property and Parish Debts Act, 1842 (5 & 6 Vict. c. 18), s. 2. The provisions of this section, so far as they were applicable to the election of guardians, ceased to be so applicable by reason of the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (9); and by sect. 52 (1) of that Act the powers of owners and ratepayers under the Poor Law Acts in a rural parish are in great part, if not entirely, transferred to the parish meeting.

Sect. 15. Note.

See the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 39, for the requirements which must be complied with to validate a statement made by an owner under this section.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 6, overseers may object to the names of owners on the register whom they may believe to be dead or disqualified.

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have made his claim so to vote in the manner required by the said Act; and no person shall be entitled to vote as proxy for more than four owners of property in any one parish (except he be a steward, bailiff, or land agent, or collector of rents for the owners of property for whom he may be appointed to vote); and no appointment of proxy shall remain in force for a longer period than two years from the making thereof, excepting only in the case in which an owner appoints his tenant, bailiff, steward, land agent, or collector of rents to be his proxy, in which case such appointment shall remain in force so long as the proxy may continue to be such tenant, bailiff, steward, land agent, or collector and while such appointment remains unrevoked; and the overseers of every parish containing a population exceeding two thousand persons, according to the last enumeration of the population published by the authority of Parliament, shall, on or before the fifth day of the month of February in every year, enter in the book to be from time to time provided for the purpose the names and addresses of all persons who before the first day of the said month of February have given such statement or made such claims as owners or proxies as aforesaid; and such overseers shall allow any person to peruse such book, without payment of any fee, at all reasonable hours between the said fifth day and the tenth day of February; and any person who has given such statement or made such claim, or any ratepayer of such parish, may, on or before the fifteenth day of the said month of February, object to any other person as not being entitled to vote as such owner, by delivering to the clerk of the board of guardians of the said parish, or of the union in which it may be comprised, and at the address of the person objected to, notice in writing of the grounds of such objection; and on or before the twentieth day of such month of February such clerk shall send to the overseers of such parish notice of some day, between the twenty-fourth of the said month and the first of March then next, on which he or some person duly appointed for the purpose will hear evidence in relation to such objections, and of the place within the parish or union at which he or such other person will attend to hear such evidence; and such overseers shall forthwith cause a copy of such notice to be fixed on or near the doors of all churches or chapels within such parish, and at all the usual places of affixing notices of parochial business; and such clerk shall attend on the day and at the place so appointed, and shall, in the presence of all persons who may think fit to be present, hear any matter adduced in support of such grounds of objection, or in opposition thereto, but none other; and the overseers of the said parish shall then and there attend, and produce to such clerk the rate-books of the parish for the whole year preceding, and shall answer all such questions as such clerk may put to them or any of them touching the matter of any such objection; and such clerk shall retain in the said book the name of all persons to whom no objection has been duly

Objections to votes of owners.

Sect. 15.

made, and of all persons objected to, unless the party objecting have appeared in support of his objection, and established such objection, and when the name of any person has been duly objected to such clerk shall require proof of the right of such person to vote as owner; and in case any matter be adduced in support of the objection, and the right of the person objected to be not proved to the satisfaction of such clerk, he shall expunge the name of such person from such book; and such clerk shall have power to adjourn from time to time, and administer an oath to the overseers of any parish, and to all persons attending before him claiming a right to vote as owners or objecting to such right, and to all witnesses who may be tendered or examined on either side; and such clerk shall write his initials against every name struck out, and sign his name to every page of the said book; and the persons whose names as owners are retained by such clerk in such book shall be the only persons entitled to vote in such parish as owners of property for the year following the twenty-fifth of March next ensuing: Provided always, that the said commissioners may, if they see fit, by order under their hands and seal, direct the guardians of such parish or union to appoint some person, other than the clerk to such guardians, as a paid officer, to hear and decide the matter of such objections as aforesaid, who shall have all such powers as are herein-before given to the clerk, and perform all such duties as are herein-before imposed on the clerk in that behalf: . . .

XVI. And whereas by the said first-recited Act it is provided that no person shall be deemed a ratepayer, or be entitled to vote, or do any other act, matter, or thing as such, under the provisions of that Act, unless he shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such ratepayer, and shall have paid the parochial rates and assessments made and assessed upon him for the period of one whole year, as well as those due from him at the time of so voting or acting, except such as shall have been made or become due within six months immediately preceding such voting or acting: Be it enacted, that such parochial rates and assessments shall be deemed to extend only to rates made for the relief of the poor.

4 & 5 Will. 4, c. 76, s. 40, explained.

[Sect. 17. *As to the annual election of guardians within forty days after March 25th:* Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), and replaced by sect. 20 (6) of that Act, and the Local Government Orders made in pursuance of sect. 20 (5) of that Act.]

Sect. 16.

Note.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 11, the provisions of this section are extended to informal assessments collected as and for poor rates.

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Number of guardians may be altered.

XVIII. It shall be lawful for the said commissioners, having due regard to the relative population or circumstances of any parish included in a union, to alter the number of guardians to be elected for such parish, without such consent as is required by the said first-recited Act.

[Sect. 19. *Providing for the division of parishes into wards by Poor Law Commissioners:* Repealed and replaced by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 12. See note to sect. 18.]

[Sect. 20. *Providing for the qualification of guardians in wards:* Repealed by the Local Government Act, 1894, and replaced by sect. 20 (2) of that Act.]

[Sect. 21. *Containing provisions as to voting in wards at election of guardians:* Repealed and replaced by the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 6, which is now repealed by the Local Government Act, 1894.]

Separate overseers.

XXII. It shall not be lawful to appoint separate overseers for any township or village or other place for which before the passing of this Act separate overseers had not been lawfully appointed.

[Sect. 23. *Orders of Poor Law Commissioners to be valid notwithstanding separate appointment of overseers:* Repealed by the S. L. R. Act (No. 2), 1874.]

Sect. 18.

Note.

The consent herein referred to was the consent of the majority of the owners and ratepayers of the parish, which was made requisite by 4 & 5 Will. 4, c. 76, s. 41, now repealed by the Local Government Act, 1894.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 12, the Local Government Board may divide any parish into wards and determine the number of guardians to be elected for each ward.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60 (1), county councils have concurrent powers with the Local Government Board of fixing and determining the number of guardians or rural district councillors to be elected for each parish within their county, and for that purpose are empowered to add parishes together and divide parishes into wards.

Sect. 22.

Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 6, every parish constituted under that Act shall, notwithstanding anything in this section contained, be a parish for which an overseer shall be appointed. And by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 1 (3), parishes which under that Act were divided into separate parishes became parishes in like manner as though they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876.

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[Sect. 24. *Justices to be* ex-officio *guardians:* Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), which, by sect. 20 (1), provides that there shall be no *ex-officio* or nominated guardians.]

Relief of married women in certain cases to be subject to the same conditions as if they were widows.

XXV. So long as it may appear that the husband of any woman is beyond the seas, or in custody of the law, or in confinement in a licensed house or asylum as a lunatic or idiot, all relief given to such woman, or to her child or children, shall, notwithstanding her coverture, be given to such woman in the same manner and subject to the same conditions as if she was a widow; but nothing herein contained shall diminish or affect the obligations or liabilities of such husband in respect of such relief.

Relief to widows in certain cases.

XXVI. In the case of any person being a widow having a legitimate child dependent on her for support, and no illegitimate child born after the commencement of her widowhood, and who at the time of her husband's death was resident with him in some place other than the parish of her legal settlement, and not situated in any union in which such parish is comprised, it shall be lawful for the guardians of such parish or union, if they see fit, to grant relief to such widow, although not residing in such parish or union: Provided always, that, notwithstanding any thing herein contained, the guardians of any union or parish, and the overseers of any parish, in which such widow may be resident or may require relief, shall be and remain liable to relieve such widow in the same manner as any other person requiring relief in such union or parish.

Proviso.

[Sect. 27. *Expenses incurred for insane paupers may be levied off their estates:* Repealed by the S. L. R. Act (No. 2), 1874, and now replaced by sect. 299 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5).]

[Sect. 28. *Guardians under local Acts to have powers with respect to insane poor:* Repealed by the S. L. R. Act (No. 2), 1874.]

Guardians to apply money raised for emigration.

XXIX. The guardians of any parish or union constituted by the said commissioners shall apply all money raised or borrowed for the purpose of defraying the expenses of emigration in such

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Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 18, the provisions of this section are to apply to any married woman living separate from her husband. For the conditions on which relief may be granted to a woman who is a widow, see Gen. Ord., December 21st, 1844, art. 1 (4) (5), and Gen. Ord., December 14th, 1852, art. 4 (3); Macmorran & Lushington's Poor Law Orders, pp. 24, 293.

Sect. 29.

Note.

The conditions and restrictions herein mentioned are contained in 4 & 5 Will. 4, c. 76, s. 62.

parish or in any parish within such union, subject to the conditions and restrictions imposed by the said first-recited Act. Sect. 29.

Costs of sites of workhouses in the metropolis and Liverpool.

XXX. In addition to the principal sum or sums of money which guardians are empowered by the said first-recited Act to raise or borrow for the purpose of purchasing, hiring, building, enlarging, or altering workhouses, or buildings to be converted into workhouses, the guardians of any parish or union any part of which is situated within the metropolitan police district, or the city of London, or the select vestry of the parish of Liverpool, may, with the consent of the Poor Law Commissioners, also raise or borrow and charge the future poor rates of such parish or union with such further or other sum or sums of money as may be or may have been necessary for the purchase of any land, or interest in land, required as the site of such workhouse, or of any additions to any such workhouse.

Burials of paupers.

XXXI. It shall be lawful for guardians, or where there are no guardians for the overseers, to bury the body of any poor

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Note.

This section appears to be repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2 (6), without prejudice, however, to anything already done under it.

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Note.

Overseers were not (and guardians are not) bound to bury the dead body of any person lying in the parish but not in any union or parochial house (*Reg.* v. *Stewart*, 12 A. & E. 773; 4 P. & D. 349; S. C. *Reg.* v. *Stennett*, 10 L. J. M. C. 40). Nor, on the other hand, is any person, who is without means, bound to accept relief by way of loan from the poor law authorities for the purpose of burying a dead body lying in his house (*Reg.* v. *Vann*, 21 L. J. M. C. 39; 2 Den. C. C. 325; 15 Jur. 1090).

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1, in all cases of burial by guardians from a parish in a union, the cost is chargeable upon the common fund of the union; and by sect. 10 of the same Act, for the purposes of the burial of any poor person dying in the workhouse of any union, such workhouse shall be considered as situated in the parish in the union where such poor person resided last, previously to his removal to the workhouse.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 21, "When a union is comprised in any school or other district, the death of any pauper in the school or asylum of such district shall for the purposes of burial be deemed to have taken place in the parish of the union from which such pauper was sent to the said school or asylum, or to the workhouse of the union, as the case may be, and the charges of the burial shall be borne by the common fund of such union."

By the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 2, guardians are empowered to contribute towards the enlargement of churchyards or burial grounds for the purpose of burying therein the dead bodies of paupers.

By the Poor (Burials) Act, 1855 (18 & 19 Vict. c. 79), s. 1, where

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person which may be within their parish or union respectively, and to charge the expense thereof to any parish under their control to which such person may have been chargeable, or in which he may have died, or otherwise in which such body may be; and unless the guardians, in compliance with the desire expressed by such person in his lifetime, or by any of his relations, or for any other cause, direct the body of such poor person to be buried in the churchyard or burial ground of the parish to which such person has been chargeable (which they are hereby authorized to do), every dead body which the guardians or any of their officers duly authorized shall direct to be buried at the expense of the poor rates shall (unless the deceased person or the husband or wife or next of kin of such deceased person have otherwise desired) be buried in the churchyard or other consecrated burial ground in or belonging to the parish, division of parish, chapelry, or place in which the death may have occurred; and in all cases of burial under the direction of the guardians or overseers as aforesaid the fee or fees payable by the custom of the place in which the burial may take place, or under the provisions of any Act of Parliament, shall be paid out of the poor rates, for the burial of each such body, to the person or persons who by such custom or under such Act may be entitled to receive any fee: Provided always, that it shall not be lawful for any officer connected with the relief of the poor to receive any money for the burial

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Note.

the burial ground of a parish is closed or overcrowded the guardians may bury the dead bodies of paupers in a neighbouring parish; and by sect. 2 guardians are empowered to enter into agreements with cemetery companies or burial boards for the burial of such poor persons as they may undertake to bury.

By the Burial Laws Amendment Act, 1880 (43 & 44 Vict. c. 41), s. 2, as amended by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 8, provision is made for giving notices of burial under that Act of persons whom the guardians are required or authorized to bury.

It is the duty of the relieving officer to bury the body of any deceased person, in respect of which an order has been made by a justice of the peace under the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34), s. 10, or the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 89, unless the friends or relatives of the deceased undertake to bury and do bury such body within the time limited by such order; and any expense so incurred may be recovered by the guardians in a summary manner from any person legally liable to pay the expenses of such burial.

The fee payable to incumbents for the burial of any pauper buried at the expense of a union or parish or hospital or infirmary in a cemetery established by special Act of Parliament is limited to one shilling, or in certain cases to two shillings and sixpence. (See the Burial Act, 1852 (15 & 16 Vict. c. 85), s. 49, and the Burial Act, 1853 (16 & 17 Vict. c. 134), s. 7, as interpreted in *Reg.* v. *Maude*, 5 E. & B. 702; 25 L. J. M. C. 45; 2 Jur. (N. S.) 182.) As to the fees generally payable, and the persons to whom the same are payable, see Brooke Little's Law of Burial, 2nd Ed., pp. 46–54, 159—165.

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of the body of any poor person which may be within the parish, division of parish, chapelry, or place in which the death may have occurred, or to act as undertaker for personal gain or reward in the burial of any such body, or to receive any money from any dissecting school, or school of anatomy, or hospital, or from any person or persons to whom any such body may be delivered, or to derive any personal emolument whatever for or in respect of the burial or disposal of any such body; and any such officer offending as aforesaid shall, on conviction thereof before any two justices, forfeit and pay a sum not exceeding five pounds.

District auditors.

XXXII. [*Provision as to formation of districts and appointment of district auditors: Repealed by* 42 & 43 *Vict. c.* 6, *s.* 11; 31 & 32 *Vict. c.* 122, *s.* 24.] The said commissioners shall

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Note.

The words in italics as to auditors' salaries are repealed by the S. L. R. Act (No. 2), 1874, which repeals this section "so far as it relates to powers of commissioners with regard to salaries of auditors."

The appointment of district auditors and the assignment to them of districts is now regulated by the District Auditors Act, 1879 (42 & 43 Vict. c. 6), s. 4; their salaries are now paid out of monies provided by Parliament (*Ib.* s. 2).

The powers of the Poor Law Commissioners [Local Government Board] with regard to paid officers are conferred by sect. 46 of 4 & 5 Will. 4, c. 76, as extended by the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 10.

By the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 6, money paid by an overseer to a constable, &c., in obedience to an order of justices under the Parish Constables Act, 1842 (5 & 6 Vict. c. 109), s. 17, as extended by the Parish Constables Act, 1850 (13 & 14 Vict. c. 20), s. 2, shall not be disallowed by any auditor. And by the Local Authorities (Expenses) Act, 1887, expenses paid by a local authority whose accounts are subjected to audit by a district auditor, shall not be disallowed by that auditor if they have been sanctioned by the Local Government Board.

By the Poor Law Audit Act, 1848, s. 8, an auditor must give notice of any surcharge intended to be made by him upon any person to whom no notice of the audit is required by law to be given (*i.e.*, any person other than an accounting officer), and who is not present at the audit, and such person may appear before the auditor and show cause against being surcharged.

The mode of certifying as to balances in the hands of accounting officers is prescribed by sect. 5 of the Poor Law Audit Act, 1848. The general form of certificate of surcharge or disallowance is given in the schedule to that Act.

Enforcement of certificate.

By the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), s. 11, payment of any sum certified by a district auditor to be due in accordance with this or any amending Act, together with costs, may be recovered as if it were a sum due in respect of the poor rate, *i.e.*, by distress and imprisonment. And by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 9, when a parish or union officer who neglects to pay over monies to the treasurer of the union, resides in one county or place and the treasurer resides in another county or place, the justices of either county or place have

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have all the powers with regard to *the salaries of the said auditors to be charged on the poor rates, and to* all other matters relating to auditors for such districts, as they have under the said first-recited Act with regard to paid officers;

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jurisdiction to hear and determine the matter. The Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 9, prescribes the evidence requisite in proceedings taken by an auditor to recover sums certified by him, and by the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 9, the limitation of time for commencing such proceedings is nine months from the surcharge or disallowance, or from the determination of an appeal to the High Court or Local Government Board, if such appeal be made. Persons aggrieved by any surcharge, allowance or disallowance, may appeal by *certiorari* to the High Court under sect. 35 of this Act; or to the Local Government Board on equitable grounds under sect. 36 of this Act, as extended by sect. 4 of the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91).

Note.

Appeal.

Recovery of penalties, &c.

Sects. 99 and 101 of 4 & 5 Will. 4, c. 76, provides for the mode of recovering forfeitures and penalties under that Act; and full costs of proceedings to recover the same are allowed by the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 10.

Provision is made for penalties and proceedings in the case of overseers refusing or neglecting to pay and deliver over to their successors any sums of money, goods, chattels, and other things in their hands by the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 2, and the Poor Rate Act, 1810 (50 Geo. 3, c. 49), s. 1.

Auditor's deputy.

By the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 10, the Local Government Board may authorize any person selected by the auditor to act temporarily as his deputy.

Powers and duties of auditor.

A definite statement of the powers and duties of an auditor in auditing poor law accounts is made in art. 41 of the General Order for Accounts, January 14th, 1867. (See Macmorran & Lushington's Poor Law Orders, p. 435.)

"Passing accounts is a judicial act: those who do so ought to examine and allow or disallow according to law" (*Reg.* v. *Saunders*, 3 E. & B. 778). But a district auditor, duly appointed, is not disqualified from auditing, and is indeed bound to audit accounts, even though he may have a direct interest in such accounts (*Reg.* v. *G. W. R. Co.*, 13 Q. B. 327; 18 L. J. M. C. 145; 13 Jur. 652).

A district auditor has power to surcharge an accounting officer for any deficiency that may on the face of the documents submitted to him appear to have arisen through the negligence or misconduct of the overseer; and the court will not interfere with an auditor's surcharge, where on the face of the documents submitted to the auditor there is evidence from which he might reasonably have concluded that the deficiency arose from misconduct or negligence on the part of the party surcharged (*Reg.* v. *Knott*, 15 L. T. (N. S.) 291).

An auditor has no power to re-open accounts already audited, and the High Court will not compel him to do so (*Reg.* v. *Chiddingstone*, 2 B. & S. 294; 31 L. J. M. C. 121; 6 L. T. (N. S.) 44; 26 J. P. 246).

What expenditure may be allowed and disallowed.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 89, "all payments, charges, and allowances made by any overseer or guardian, and charged upon the rate for the relief of the

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and every auditor appointed for such a district shall have full powers to examine, audit, allow, or disallow of accounts, and of items therein, relating to monies assessed for and applicable to the relief of the poor of all parishes and unions within his district, and to all other money applicable to such relief; and such

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poor, contrary to the provisions of this Act, or at variance with any rule, order or regulation of the [Local Government Board], made under the authority of this Act, shall be and the same are hereby declared to be illegal, any law, custom, or usage to the contrary notwithstanding." All such payments, &c., must therefore be disallowed by the auditor.

An overseer cannot charge for a salary to himself; and therefore where, upon an appeal against an overseer's accounts, on the ground that a salary had been allowed to him, and was charged in the account, and the sessions allowed it; the Court of King's Bench held that no such charge could be legally made, saying that an overseer has no right to a salary for his services (*Rex* v. *Glyde*, 2 M. & S. 323). Even where in a very extensive parish, twenty-one miles in circumference, containing 13,000 inhabitants, and the poor rates annually amounting to upwards of 1,000*l.*, the common-law vestry, who managed the affairs of the parish, came to a resolution not to employ an assistant overseer, on account of the then embarrassed state of the parish; but directed the overseers to call in what assistance they should stand in need of, and also resolved that a collector should be paid a poundage for collecting the rates; the overseers accordingly employed and paid persons for making out the poor rates and copies, and making up the accounts, and they paid the collector his poundage. These items being objected to on appeal, and the sessions having disallowed them, the Court of King's Bench held that the sessions were right in doing so: it had been determined that overseers cannot be allowed a salary, neither can they employ others at a salary at the public expense; and as for the vestry having directed it, they had no authority by law to do so (*Rex* v. *Guyer*, 2 A. & E. 216; 4 N. & M. 158; 4 L. J. M. C. 39).

Since the passing of the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 30, an auditor properly disallows fees to justices' clerks for returning and verifying jury lists, which overseers may have paid and charged in their accounts (*Reg.* v. *Haslingfield, Overseers*, L. R. 9 Q. B. 203; 43 L. J. Q. B. 38; 29 L. T. 801; 22 W. R. 260).

An auditor may allow such law costs as are properly incurred by overseers (*Rex* v. *Micklefield*, 1 Bott. 91); but it is for the auditor to decide whether the costs have been properly incurred; and where the overseers defended an appeal against a rate which was manifestly bad, it was held that their costs were rightly disallowed (*Reg.* v. *Fouch*, 2 Q. B. 308; 11 L. J. M. C. 1). If there is nothing illegal in the overseers entering upon the litigation in which the expenses are incurred by them the auditor must find that the litigation was inexpedient or that the expenses are unreasonably great before he can disallow them (*Reg.* v. *Street*, 18 Q. B. 682; 22 L. J. M. C. 29; 16 Jur. 1085; 16 J. P. 359).

An auditor is justified in allowing in overseers' accounts, costs and expenses incurred in opposing a bill in Parliament which is calculated to injuriously affect the parish. A bill in Parliament

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Recovery of money due, books, &c. from accounting parties.

auditor shall charge in every account audited by him the amount of any deficiency or loss incurred by the negligence or misconduct of any person accounting, or of any sum for which any such person is accountable, but not brought by him into account, against such person, and shall certify on the face of

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promoted by a dock company proposed, if the tolls fell short of expenditure, to make up the deficiency by issuing precepts to the overseers to apply part of the poor rates of the parish to that purpose; and the overseers of the parish with the consent of the vestry having successfully opposed the passing of the bill and charged the expenses of the opposition on the poor rates, it was held that as the expenses had been allowed by the auditor as reasonable, the overseers were entitled to charge them on the poor rate (*Reg.* v. *White*, or *Reg.* v. *Sibley*, 14 Q. B. D. 358; 54 L. J. M. C. 23; 52 L. T. 116; 33 W. R. 248).

The guardians of a union, being authorized to raise 4,000*l.* by loan, advertised for tenders, received six, and accepted one from an agent offering the sum at a certain rate of interest and charge for commission. The guardians paid this charge, amounting to 50*l.* The auditor disallowed 38*l.* 10*s.*, part of the commission, and surcharged one of the guardians with that sum as having been illegally paid. *Held* that the auditor was wrong, as there was no rule against paying commission for getting a loan if in the circumstances of the case the terms were the most advantageous to the ratepayers (*Reg.* v. *Haslehurst*, 51 J. P. 645).

Care must be taken by the auditor to distinguish between expenses incurred by overseers in litigation on behalf of the parish and those incurred by overseers personally. The expenses incurred by overseers in defending an appeal against the allowance of their accounts cannot properly be allowed (*Rex* v. *Johnson*, 5 A. & E. 340; 6 N. & M. 727; 2 H. & W. 201; 5 L. J. M. C. 129). And where a pauper guilty of riotous conduct towards an overseer, being given in charge to a constable, was rescued; and the rescuer being indicted and acquitted, the overseer paid the costs of the prosecution, and charged them in his accounts; the court held that these costs could not be charged to the parish by the overseer as expenses incurred by him in the execution of his office (*Rex* v. *Bird*, 2 B. & Ald. 522).

In the same way it is for the auditors to decide whether there has been an excessive or unnecessary expenditure for any lawful purpose, and to disallow the excess, or the whole if unnecessarily incurred. Thus an auditor was held justified in disallowing (1) a sum paid for six months' rent of a small house taken to facilitate the execution of the duties of the overseers, in which the business of the township was transacted and the books and papers deposited; and (2) a sum charged for duplicates of appointments of overseers (*Ex parte Spotland Overseers*, 2 L. T. (N. S.) 214; 24 J. P. 323).

And where under a local Act the directors of the poor were empowered to appoint a clerk and other officers, and to pay and make such salaries, remunerations and allowances to the clerk and other officers and servants as they should *in their discretion think proper*, and the auditor disallowed part of a bill of costs paid by the directors to their clerk; it was held that the auditor had power to order the disallowance, and that his decision was conclusive unless

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every account audited by him any money, books, deeds, papers, goods, or chattels, found by him to be due from any person; and when any such auditor has so certified any money, books, deeds, papers, goods or chattels, to be due from any person, he shall forthwith report the same to the said commissioners; and the person from whom any money is so certified to be due shall within seven days pay or cause to be paid such money to the treasurer of the guardians of the union or parish, if there be any such treasurer; and in the case of a union such money shall be applied by the guardians to the use of all or any of the parishes included in such union, according as all or any of such parishes may be interested in the sum so paid; and all books, deeds, papers, goods and chattels, and in the case where there is no treasurer as aforesaid, all monies so certified to be due, shall be delivered over or paid, within seven days of the same being certified, to the person or persons authorized to receive the same; and if any such money, books, deeds, papers, goods or

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reversed on appeal (*Reg.* v. *Tyrwhitt*, 2 E. & B. 77; 17 Jur. 893; 1 W. R. 327).

Where there are two overseers, the one is not answerable for the default or malversation of the other (*Rex* v. *Essex JJ.*, [1832] 3 B. & Ad. 941); and therefore the court quashed a surcharge made by an auditor on account of such a default, and directed that the costs of the appealing overseer should be paid out of the parish funds (*Reg.* v. *Jeffery and Blanchard*, 23 J. P. 277).

An auditor has no power to disallow the expenses of persons employed by overseers to make out and copy a valuation list under 25 & 26 Vict. c. 103, s. 26, when the vestry have consented to such expenses being incurred under 27 & 28 Vict. c. 39, s. 7, even though the consent of the vestry be given after the expenses have been incurred (*Reg.* v. *Chorlton-upon-Medlock*, [1875] 1 Q. B. D. 62; 45 L. J. M. C. 33; 33 L. T. (N. S.) 526; 24 W. R. 110; 40 J. P. 533).

The vestry of a parish having charged in their account a sum of 100*l.* paid to their vestry clerk appointed under the Vestries Act, 1850 (13 & 14 Vict. c. 57), s. 6, for preparing the valuation list, the auditor disallowed the payment on the grounds, (1) that preparing the list was among the statutory duties of the vestry clerk (sect. 7 of the Act), for which his salary under the Act was to be taken as payment; and (2) that the charge was excessive; but the court held that the valuation list was not an assessment; that the amount charged might have been and had been sanctioned by the vestry, and that the claim of the vestry clerk was not restricted to disbursements out of pocket; and quashed the disallowance (*Reg.* v. *Cumberlege*, [1877] 2 Q. B. D. 366; 46 L. J. M. C. 214; 36 L. T. 700; 41 J. P. 593).

Costs.

A poor law auditor was allowed out of the poor rates his costs of proceedings for the recovery of monies surcharged by him in the accounts of an assistant overseer, although the proceedings proved abortive and were mistaken on his part, on the ground that he was a public officer acting to the best of his judgment in the discharge of his duty (*Prest* v. *Royston Union*, 33 L. T. (N. S.) 564; 24 W. R. 174).

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chattels be not duly paid or delivered over as herein-before directed, the said auditor, or any auditor subsequently appointed, shall proceed, as soon as may be, to enforce the payment or delivering over of the same; and all monies so certified to be due by such auditor shall be recoverable as so certified from all or any of the persons making or authorizing the illegal payment, or otherwise answerable for such monies, and shall be recovered on the application of such auditor, or of any such auditor subsequently appointed, or by any person for the time being entitled or authorized to receive the same, in the same manner as penalties and forfeitures may be recovered under the provisions of the said first-recited Act; and the expenses attending such proceeding or recovery shall (except so far as the same may be paid by the person against whom the proceedings have been taken) be repaid to such auditor by the guardians of the parish or union, or by the district board of the district to which the proceedings may respectively relate, and shall be charged in their accounts in such manner and in such proportions as the said commissioners may direct; and if any person from whom any such books, deeds, papers, goods, or chattels may be due neglect or refuse to deliver over the same to the person for the time being entitled or authorized to receive the same, the person so neglecting or refusing shall be liable, on the complaint of any such auditor for the time being, or of the person entitled or authorized to receive the same, to the penalties and proceedings provided in the case of overseers refusing or neglecting to pay and deliver over to their successors any sum or sums of money, goods, chattels, and other things, in their hands; and any churchwarden, surveyor of the highways, overseer, or other officer of a parish or union, who shall wilfully authorize or make an illegal or fraudulent payment from the church rate, highway rate, or other public fund of a parish or union, or shall unlawfully make any entry in his accounts for the purpose of defraying or making up to himself or any other person the whole or any part of any sum of money unlawfully expended from the poor rate, or disallowed or surcharged in the accounts of any parish or union by such auditor, shall, upon conviction thereof before any two justices, forfeit and pay for every such offence any sum not exceeding twenty pounds, and also treble the amount of such payment or of the sum so entered in his accounts.

Penalty on officers wilfully authorizing or making illegal payments or entries.

Rate-books, &c. to be made up seven days before the audit day.

XXXIII. Seven clear days at least before the day fixed for the audit of accounts the overseers or other officers employed in any parish in carrying the laws for the relief of the poor into

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Note.

By the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 7, notice of the audit must be duly advertised in current newspapers.

Quarterly accounts were prescribed by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 47; but now by the General Order for Accounts, January 14th, 1867, arts. 26, 27, accounts

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execution, and every collector or assistant overseer acting for such parish, shall cause their rate-books and other accounts to be made up and balanced; and the books so made up shall forthwith be deposited at the house within the parish of some one of such overseers or other officers, or of such collector or assistant overseer, or at some other house within the parish; and notice shall be forthwith be affixed at the usual place or places of giving parish notices, stating the time and place of audit, as notified by the auditor, and the place where the books are deposited; and such books shall on each of such days be open between the hours of eleven and three for the inspection of every person liable to be rated to the relief of the poor; and such auditor shall give or send by post or otherwise to the said overseers or other officers fourteen days' notice of the said audit; but it shall not be necessary for the auditor to give or send separate notices to each of such overseers or other officers, and it shall be sufficient if it be proved that any one of them had notice; and if any such overseer or other officer, collector, or assistant overseer neglect to make up such account, or alter such account, or allow it to be altered when so made up, or refuse to allow such inspection thereof, he shall be liable, on conviction thereof, to forfeit forty shillings; and if any such overseer or other officer, collector or assistant overseer, refuse or wilfully neglect to affix such notice of audit, and of the time and place for the inspection of such accounts, as above provided, he shall be liable, on conviction thereof, to forfeit forty shillings; and it shall be lawful for every ratepayer in any parish or union to be present at the audit of the accounts relating to such parish or union, and to make any objection to any such accounts before such auditor; and it shall be lawful for any such auditor to require any person holding or accountable for any money, books, deeds, papers, goods, or chattels, relating to

Notice of time and place of audit.

Inspection of books.

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are made up half-yearly to March 25th and September 29th of each year.

Note.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 11, auditors may recover costs of proceedings to enforce due attendance at audits.

Mandamus lies to guardians or overseers to allow any ratepayer to inspect the books of accounts (*Rex* v. *Great Farringdon*, 9 B. & C. 541).

A churchwarden failed, after notice, to attend an audit of the poor law accounts of his parish, and was convicted by justices of a wilful neglect or disobedience of the rules, orders and regulations of the Poor Law Commissioners under 4 & 5 Will. 4, c. 76, s. 98. *Held* that as he had taken no part in the poor law administration of the parish, as the churchwardens had not usually attended the audit, and no intimation had been given that their absence interfered with the transaction of business, he was not guilty of such wilful neglect or disobedience, and the conviction was quashed (*Holgate* v. *Brett*, 58 L. T. 452; 36 W. R. 471; 52 J. P. 661).

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the poor's rate or the relief of the poor, to produce to such auditor his accounts and vouchers, and to make or sign a declaration with respect to such accounts; and so often as such person neglects or refuses to attend, either at the audit or any adjournment thereof, when so required by such auditor, or to produce to him such accounts or vouchers, or any of them, or to make or sign a declaration with respect to his accounts, if thereunto required by such auditor, he shall be liable for every such refusal or neglect to forfeit forty shillings, to be recovered as penalties and forfeitures under the said first-recited Act, or if he wilfully make or sign a false declaration in respect of such accounts he shall be liable to the penalties of perjury.

[Sect. 34. *Relating to balance struck before the passing of the Act:* Repealed by the S. L. R. Act (No. 2), 1874.]

Auditors' allowances, disallowances, surcharges, may be removed into Court of Queen's Bench by *certiorari*.

XXXV. If any person aggrieved by any allowance, disallowance, or surcharge by any such auditor require such auditor to state the reasons for the said allowance, disallowance, or surcharge, the auditor shall state such reasons in writing in the book of account in which the allowance, disallowance, or surcharge may be made; and it shall be lawful for every person aggrieved by such allowance, and for every person aggrieved by such disallowance or surcharge, if such last-mentioned person have first paid or delivered over to any person authorized to receive the same all such money, goods, and chattels as are admitted by his account to be due from him or remaining in his hands, to apply to the Court of Queen's Bench for a writ of *certiorari* to remove into the said court the said allowance, disallowance, or surcharge, in the like manner and subject to the like conditions as are provided in respect of persons suing forth writs of *certiorari* for the removal of orders of justices of the peace, except that the condition of such recognizance shall be to prosecute such *certiorari*, at the costs and charges of such person, without any wilful or affected

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Sect. 35.

Note.

Certiorari for the removal of orders of justices is chiefly regulated by the Quarter Sessions Appeal Act, 1731 (5 Geo. 2, c. 19).

It is entirely in the discretion of the court whether the costs of a *certiorari* shall be allowed either to the prosecutor or to the auditor defending his surcharge or allowance; and where the court quashed the allowance by an auditor of expenses which had been incurred in unnecessary legal proceedings, it refused the auditor the costs of appearing to defend his allowance (*Reg.* v. *G. W. R. Co.*, 13 Q. B. 327; 18 L. J. M. C. 145; 13 J. P. 198).

The court will not on *certiorari* interfere with an auditor's surcharge, where on the face of the documents submitted to the auditor there is evidence from which he might reasonably have concluded that the deficiency surcharged arose from misconduct or negligence on the part of the party surcharged (*Reg.* v. *Knott*, 15 L. T. (N. S.) 251).

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delay, and if such allowance, disallowance, or surcharge be confirmed to pay to such auditor or his successor, within one month after the same may be confirmed, his full costs and charges, to be taxed according to the course of the said court, and except that the notice of the intended application, which shall contain a statement of the matter complained of, shall be given to such auditor or his successor, who shall in return to such writ return a copy under his hand of the entry or entries in such book of account to which such notice shall refer, and shall appear before the said court, and defend the allowance, disallowance, or surcharge so impeached in the said court, and shall be reimbursed all such costs and charges as he may incur in such defence out of the poor rates of the union or parish respectively interested in the decision of the question, unless the said court make any order to the contrary; and on the removal of such allowance, disallowance, or surcharge the said court shall decide the particular matter of complaint set forth in such statement, and no other; and if it appear to such court that the decision of the said auditor was erroneous, they shall, by rule of the court, order such sum of money as may have been improperly allowed, disallowed, or surcharged to be paid to the party entitled thereto by the party who ought to repay or discharge the same; and they may also, if they see fit, by rule of the court, order the costs of the person prosecuting such *certiorari* to be paid by the parish or union to which such accounts relate as to such court may seem fit; which rules of court respectively shall be enforced in like manner as other rules of the said court are enforceable.

Or persons aggrieved may apply to commissioners, who

XXXVI. Provided always, that it shall be lawful for any person aggrieved as aforesaid by any allowance, disallowance, or surcharge, in lieu of making application to the Court of Queen's

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Note.

The provisions of this section are extended by sect. 4 of the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), which enables the Local Government Board to remit disallowances or surcharges, although the same have been lawfully made by an auditor.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 38, "when an auditor shall have allowed, disallowed, or surcharged a sum in any account rendered to him jointly, and an appeal shall be made against the same, the decision of the auditor may be reversed by the court or the Local Government Board, as the case may be, and the disallowance or surcharge may be remitted by the said board in favour of one or more of the persons appearing only without discharging the other person or persons against whom such decision of the auditor was pronounced."

The court will not make absolute a rule against justices to issue their warrant for monies surcharged by an auditor pending an appeal by the persons surcharged to the Local Government Board (*Reg.* v. *Denbigh JJ.*, 33 L. T. 145).

If guardians, paid officers, or overseers who are surcharged by

Sect. 36. may issue orders for determining questions.

Bench for a writ of *certiorari*, to apply to the said commissioners to inquire into and to decide upon the lawfulness of the reasons stated by the auditor for such allowance, disallowance, or surcharge, and it shall thereupon be lawful for the said commissioners to issue such order therein, under their hands and seal, as they may deem requisite for determining the question.

[Sect. 37. *Cessation of powers of justices to audit, where a district auditor is appointed:* Repealed by the Poor Law Audit Act, 1879 (42 & 43 Vict. c. 6).]

Accounts to be rendered when commissioners direct, not less often than half-yearly.

XXXVIII. So much of the said first-recited Act as provides that accounts shall be made and rendered not less frequently than once in every quarter shall be and is hereby repealed; and such accounts shall be made and rendered at such times and as often as the said commissioners may direct, but not less often than once in every half-year.

Taxation and allowance of law bills by clerk of the peace or his deputy.

XXXIX. On application of any overseer, or of any board of guardians, or of any attorney at law, it shall be the duty of the clerk of the peace of the county or place, or his deputy, if thereunto required, to tax any bill due to any solicitor or

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Sect. 36. Note.

the auditor, fail to avail themselves of any of these remedies, they cannot afterwards set up any objection to the surcharge when summoned before justices by the auditor for the recovery of the amount. And if the justices in such a case refuse to act, the High Court of Justice will compel them (*Reg.* v. *Finnis*, 1 E. & E. 935; 28 L. J. M. C. 201; 5 Jur. (N. S.) 791; 23 J. P. 340; *Reg.* v. *Linford*, 7 E. & B. 950).

Sect. 37. Note.

The audit of overseers' accounts by justices was formerly regulated by the Poor Relief Act, 1601 (43 Eliz. c. 2), ss. 1, 5; the Poor Relief Act, 1743 (17 Geo. 2, c. 38), ss. 1, 4; and the Poor Rate Act, 1810 (50 Geo. 3, c. 49).

Sect. 38. Note.

The provisions herein repealed are contained in sect. 47 of 4 & 5 Will. 4, c. 76.

The making and rendering of accounts is now regulated by the General Order for Accounts, January 14th, 1867, by arts. 26 and 27 of which accounts are to be made up twice a year to March 25th and September 29th in each year.

Sect. 39. Note.

As to payment of costs of protracted proceedings by guardians, &c., see the Poor Law Audit Act, 1848 (11 & 12 Vict.), c. 91), s. 2.

For taxation, the clerk of the peace shall be allowed at the rate of 4*d.* per folio of seventy-two words (Gen. Ord., November 21st, 1844).

Ratepayers cannot under this section apply to refer a solicitor's bill to taxation: nor are they persons "liable to pay" within the meaning of the Solicitors Act, 1843 (6 & 7 Vict. c. 73), s. 38, so as

attorney in respect of business performed on behalf of any parish or union situate wholly or in part within such county or place; and the allowance of any sum on such taxation shall be *primâ facie* evidence of the reasonableness of the amount, but not of the legality of the charge; and the clerk of the peace shall be allowed for such taxation after the rate to be fixed from time to time by the master of the Crown Office, and declared by an order of the said commissioners; and if any such bill be not taxed before it is presented to the auditor, the auditor's decision on the reasonableness as well as the legality of the charges shall be final.

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Allowance for taxation.

XL. It shall be lawful for the said commissioners, as and when they may see fit, by order under their hands and seal, to combine unions, or parishes not in union, or such parishes and unions, into school districts, for the management of any class or classes of infant poor not above the age of sixteen years, being chargeable to any such parish or union, who are orphans, or are deserted by their parents, or whose parents or surviving

Parishes and unions may, within certain limits, be combined into school districts.

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to be entitled to do so under that Act (*In re Barber*, (1845) 14 M. & W. 720; 10 J. P. 648).

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Note.

Under this section a solicitor's bill for agency business is taxable by the clerk of the peace (*Smith* v. *Dimes*, (1849) 4 Exch. 32).

If a solicitor's bill be not taxed by the clerk of the peace before it is presented to the auditor the decision of the auditor on the reasonableness as well as the legality of the charges is final, and his allowance or disallowance of such charges cannot be removed by *certiorari* under sect. 35 of this Act, and questioned by the overseers or guardians (*Reg.* v. *Hunt*, 6 E. & B. 408; S. C. *Reg.* v. *Napton, Overseers*, 25 L. J. Q. B. 296; 2 Jur. (N. S.) 1138; 4 W. R. 561).

The object of this section is to prevent the waste of the rates in useless expenditure; it does not affect the liability of the guardians to their solicitors. Consequently, notwithstanding anything contained in this section, such solicitors are entitled to have their costs taxed as between solicitor and client by a master under sect. 37 of the Solicitors Act, 1843 (6 & 7 Vict. c. 73), and to apply monies of the guardians in their hands in payment of the costs so taxed (*Southampton Guardians* v. *Bell*, 21 Q. B. D. 297; 59 L. T. 181; 36 W. R. 924; 52 J. P. 567).

Sect. 40.

Note.

A proviso to this section was repealed by sect. 16 of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106).

By the Poor Law (Schools) Act, 1848 (11 & 12 Vict. c. 82), s. 1, the limitations imposed by this section may be removed with the consent of the majority of the guardians of the parishes or unions proposed to be combined.

By the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 1, a child wholly or partly maintained by the guardians in a district school shall be deemed to be "maintained by the guardians" for the purposes of the guardianship by them of a child deserted by its parents.

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parent or guardians are consenting to the placing of such children in the school of such district; but the said commissioners shall not include in any such district any parish any part of which would be more than fifteen miles from any other part of such district. . . .

Asylums for houseless poor.

XLI. [*Recital that it was expedient that more effectual means should be provided for temporary relief of poor persons found destitute and without lodging in London and other towns, and for avoiding the introduction of disease.*] It shall be lawful for the said commissioners, as and when they may see fit, by order under their hands and seal, to declare so many parishes or unions, or parishes and unions, any part of which may be within the district of the metropolitan police, or the city of London, or within the limits respectively of the city, towns, or boroughs named in the schedule marked (B.) annexed to this Act, as such limits are described in the Parliamentary Boundaries Act, 1832, to be combined into districts for the purpose of providing and managing asylums for the temporary relief and setting to work therein of destitute houseless poor who are not charged with any offence, and who may apply for relief, or become chargeable to the poor's rates within any such parish or union.

2 & 3 Will. 4, c. 64.

Constitution of district boards for school districts and asylum districts.

XLII. A board shall be constituted for every district formed under this Act for the maintenance of a school or of an asylum; and every district board so constituted shall respectively consist of members to be elected from amongst the persons rated within the district to the relief of the poor; and the said commissioners shall fix the qualification of such members, such qualification to consist of being rated within the district to the relief of the poor, but not so as to require a qualification exceeding the net annual value of forty pounds; and such members shall be elected at such periods not exceeding three years, and in such proportions, and in such manner, as the said commissioners may from time to time direct, by the

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Sect. 41. Note.

Power to dissolve asylum districts is given by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 14.

Sect. 42. Note.

By the Poor Law (Schools) Act, 1848 (11 & 12 Vict. c. 82), s. 2, all the provisions contained in the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), in respect of the election, qualification, resignation, and the acts of guardians of a union, and in respect of the supply of vacancies on the board of guardians shall apply to the members of district boards formed under this Act. Certain of these provisions, viz., those contained in sects. 8, 11, and 15 of 5 & 6 Vict. c. 57, are repealed by the Local Government Act, 1894.

By a General Order, September 12th, 1894, addressed to ten school districts, the qualification for election as manager in those districts was fixed at 5*l.* rateable value.

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guardians of every parish or union governed by a board of guardians under the provisions of the said first-recited Act or of any local Act, and if there be no such guardians then by the overseers of a parish not governed by such guardians; and the chairman of every board of guardians constituted under the provisions of the said first-recited Act shall, if he consent thereto, be *ex officio* a member of any district board constituted under the provisions of this Act.

Powers and duties of district boards.

XLIII. Every such district board shall have such of the powers of guardians for the relief and management of the poor within any school or asylum, and for the appointment, payment, and control of paid officers, as the said commissioners may direct; and the legal and reasonable orders of such district board shall be obeyed and obedience thereto enforced in the same manner and by the same remedies and penalties as the legal and reasonable orders of guardians; and it shall be lawful for the said commissioners, *with the consent in writing of a majority of any district board*, to direct such district board to purchase or hire or build, and to fit up and furnish, a building or buildings, of such size and description, and according to such plan, and in such manner, as the said commissioners may deem most proper, for the purpose of being used or rendered suitable for the relief and management of the poor to be received into such school or asylum; and the said commissioners may, *with the like consent*, alter the district for which such district board was originally constituted, by adding thereto or taking therefrom any parish or parishes, union or unions, as aforesaid; and the said commissioners shall have the same powers for regulating the proceedings of any district board or of any committee thereof, and for directing and regulating the appointment, duties, remuneration, and removal of paid officers to be appointed by any district board, as they have with respect to the proceedings of boards of guardians, or with respect to paid officers to be appointed by any board of guardians; and every such board for a school district shall

Buildings to be provided for schools and asylums.

Alteration of districts.

Regulation of proceedings and officers of district boards.

Sect. 43.

Note.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 16, the words of this section printed in italics were repealed.

Provision is made in sect. 95 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), for enforcing obedience to the legal and reasonable orders of guardians; in sects. 46, 48, of that Act, for the appointment, &c., of paid officers by guardians; in sect. 42, for issuing rules, &c., for the regulation of workhouses; in sects. 98, 99, for the enforcement of such rules by penalties, &c.; and in sect. 19, for safeguarding the observance of religious principles or scruples of inmates of workhouses.

So much of this section as relates to rules of the Poor Law Board for the government of an asylum or its inmates, and to religious assistance and instruction, is, by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 23, extended to any asylum provided under that Act.

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Appointment of chaplains for school districts.

Rules for schools and asylums.

Proviso as to attendance at religious worship and religious instruction.

Visitation of schools and asylums by ministers not of Established Church.

Inspection of schools.

appoint, with the consent of the bishop of the diocese, at least one chaplain of the Established Church as one of the paid officers aforesaid, who shall be empowered to superintend the religious instruction of all the infant poor being under the control of such district board; and it shall be lawful for the said commissioners to issue rules and regulations for the government of any such school or asylum, and the inmates thereof, as if such school or asylum were a workhouse; and any orders or regulations of the said commissioners made in pursuance of this Act shall be enforced in the same manner and by the same penalties as if the same were an order or regulation made in pursuance of the said first-recited Act: Provided always, that no rules, orders, or regulations of the said commissioners, nor any regulations made by such district board, shall oblige any inmate of any such school or asylum to attend any religious service which may be celebrated in a mode contrary to the religious principles of such inmate, nor shall authorize the education of any child in any religious creed other than that professed by the parents or surviving parent of such child, and to which such parents or surviving parent may object, or, in the case of an orphan or deserted child, to which his next of kin may object: Provided also, that it shall be lawful at all reasonable times of the day, according to rules and regulations to be made for this purpose by the said board, for any minister of the religious persuasion professed by an adult inmate, or of the religious persuasion in which any child has been brought up, or in which the parents, or surviving parent, or next of kin, as the case may be, may desire such child to be instructed, to visit the school or asylum, at the request of such adult inmate, for the purpose of affording to him religious assistance, or to visit such child for the purpose of instructing such child in the principles of his religion; Provided also, that it shall be lawful at all times for any inspector of schools appointed by Her Majesty in Council to visit such schools, and to examine into the proficiency of the scholars therein.

Powers of district board for purchasing and hire of land, &c.

XLIV. For the purpose of providing a building for such school or asylum it shall be lawful for such district board, subject to the order of the said commissioners, to exercise the powers given to boards of guardians by the said first-recited

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Sect. 44.

Note.

The whole of this section, except the first proviso which has reference to the provisions of sect. 3 of the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), is in effect repealed by sect. 2 (6) of the Poor Law Act, 1889 (52 & 53 Vict. c. 56), and replaced by sect. 2 (5) and the other sub-sections of sect. 2 of that Act, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

Further provision is made for the exchange, sale, &c., of school district property by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 17.

Act or any other Act or Acts for the purchase and hire of lands and buildings, and to borrow, in like manner as is provided in the said first-recited Act or in any other Act or Acts, such sum or sums of money as may be necessary for the purpose of purchasing any site, or purchasing, hiring, or building, and of fitting up and furnishing such building or buildings as aforesaid, and to charge the future poor rates of the parishes or unions, or parishes and unions so combined as aforesaid, with the payment of such sum or sums of money, and interest thereon: Provided always, that the consent of any ratepayers or owners of property of any parish shall not be necessary to any sale, exchange, lease, or other disposal by guardians or overseers to or with any such district board of any workhouse, tenement, building, or land: Provided also, that the principal sum or sums to be raised for the purpose of providing any such building or buildings as aforesaid, and charged on any union, or on any parish not included in a union, shall in no case exceed one-fifth of the average annual amount of the aggregate expenditure relating to the relief of the poor within any such union, or of the like expenditure within any such parish, for three years ending the twenty-fifth day of March next preceding the raising of such money: Provided also, that the principal sum or sums required for the purpose of providing any such building or buildings shall, if the same be borrowed, be repaid, with all interest thereon, within a period not exceeding twenty years.

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Sums to be raised for providing schools or asylums not to exceed one-fifth part of the average annual expenditure for the relief of the poor.

Repayment of sums raised.

XLV. Every such district board shall be enabled to accept, take, and hold, on behalf of the district for which they act, any lands, buildings, goods, effects, or other property, as a corporation, and in all cases to sue and be sued as a corporation, by the name of the Board of Management of the District School or Asylum, as the case may be.

District board may hold property of the district, and sue and be sued as a corporation.

XLVI. Every district board for the management of any school or asylum shall from time to time call on the parishes and unions included in such district for such contributions as they may deem requisite for the purposes of this Act; and notice in writing of the amount of such contributions, purporting to be signed by the clerk or other officer of such district board, in any form prescribed by the said commissioners, shall, fourteen days at least before such contribution becomes due, be forwarded, by post or otherwise, to the clerk to the board of guardians of any union, and to two at least of the overseers or other officers authorized to make and levy rates for the relief of the poor in every parish from whom such contributions

Payment of contributions to district boards by parishes and unions.

Sect. 46.

Note.

The remedies given to guardians for the recovery from overseers of contributions of parishes will be found in the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1, as amended by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 9, and in sect. 63 of this Act. See also art. 5 of the Gen. Ord., April 22nd, 1842.

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Recovery of contributions if not paid.

or any part thereof will become due; and if such contributions are not duly paid to the treasurer of such district board, such district board shall, in addition to any other remedy which now is or hereafter may be given to any persons against any board of guardians, have the like remedy for recovery of the same from the overseers or other officers authorized to make and levy the rates for relief of the poor of the several parishes, whether comprised in an union or otherwise, and which may form part of the district for which such district board may act, as are given to guardians for the recovery from overseers of the contributions of parishes; and in case of any addition or separation of parishes or unions, the said commissioners shall ascertain the proportionate value of property and amount of obligations of every parish or union affected by the change, and shall fix the amount to be received or paid, or secured to be paid, by every such parish or union.

Adjustment of liabilities on addition or separation of parishes or unions.

Distribution of charges for district schools.

XLVII. [*The expenses incurred by any district board in the purchase or hire of any building or buildings to be used as a school, or in erecting, repairing, adding to, or fitting up any building, and in the purchase of utensils and materials for the employment of the inmates of such school, or of books and other objects and things necessary for the instruction of such inmates, and the salaries of the officers and servants of the establishment, and all other expenses incurred on the common account of the parishes or unions, or parishes and unions, so united for the management of any class of infant poor, or incidental to the discharge of the duties of such district board, shall be paid by such unions in the proportion of the averages last declared for every such union, and by such parishes in the proportion of the average expenditure of every such parish for the like period and purposes as those to which the declared averages of such unions shall relate; and the said commissioners shall from time to time, by order under their hands and seal, ascertain and declare the proportion and rates of contribution in the above respects of every such parish and union; and*] all other expenses incurred in the relief of the children under the management of such district board shall be separately charged by such district board to the parish or union from which each such child may be sent.

Sect. 47.

Note.

The portion of this section inclosed in brackets, providing for the contribution of the unions and parishes comprised in any school district, is repealed by 13 & 14 Vict. c. 11, s. 1; and so much of this section, and of the Act 13 & 14 Vict. c. 11, as provides for payment by unions as herein and therein mentioned of expenses incurred by any district board in the purchase or hire of any land or buildings for a school, or in erecting, repairing, adding to, or fitting up any building, and the salaries of the officers and servants of the establishment, and other common charges of the school, is repealed by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 47, as far as those provisions relate to a district in the metropolis as defined by that Act.

Sect. 48.

Distribution of charges for district asylums.

XLVIII. The expenses incurred by every such district board in the purchase or hire of any building or buildings, or in erecting, repairing, adding to, or fitting up any building as an asylum, and in the purchase of utensils and materials for the employment of the inmates of such asylum, and other objects and things necessary for the relief of such inmates, and the salaries of the officers and servants of the establishment, and all other expenses incurred by such district board in the relief of the poor, or in the management of such asylum, or incidental to the discharge of the duties of such district board, shall be charged by such district board upon the parishes or unions, or parishes and unions comprised in such district, in proportion to the annual value of messuages, lands, tenements, and hereditaments upon which such parishes and the parishes combined in such unions are respectively assessed to the county or borough rate, or other rate in the nature of a county or borough rate; and where any parish or place comprised in such district does not contribute in respect of the whole thereof to any county or borough rate, the said expenses shall be paid by such parish or place in proportion to the net annual value of all the property therein assessed to the rates for the relief of the poor; and any information necessary for the distribution of such charge shall be furnished, on demand of such district board or of the said commissioners, by every parish officer, and by every clerk of the peace, town clerk, or other like officer of any county, city, town, or borough, or other place raising rates in the nature of county or borough rates.

Appointment, &c. of auditors for district boards.

Audit of accounts.

XLIX. The Poor Law Commissioners shall appoint some person, . . . who shall be the auditor of such district, and shall be empowered and required to audit the accounts of each district board, and of the officers of such district board; . . . and it shall be lawful for the said commissioners, as they may see fit, to remove any auditor of such district, and in case of vacancy to appoint another person as aforesaid to the office; and every district board constituted under this Act, and every officer of such district board, shall, twice in the year at least,

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Sect. 48. Note.

Where there is a valuation list in force it seems that the contributions of the various parishes or places will be fixed according to the annual rateable value of the property in such parishes or places appearing in such valuation list. (See the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 30.)

Sect. 49. Note.

The words omitted from this section, providing that the person appointed should be an auditor of some parish within the district, and providing for payment of his salary, are repealed by the District Auditors Act, 1879 (42 & 43 Vict. c. 6).

See sects. 32, 33, *supra*, for the powers and duties of auditors; and see sect. 99 of 4 & 5 Will. 4, c. 76, for mode of recovering penalties from persons making or authorizing illegal payments.

Sect. 49.

at such time and in such manner and form as may be prescribed by the Poor Law Commissioners, account to the auditor appointed as aforesaid; and such auditor shall have all the powers of allowing and disallowing any charges in such accounts as are or may hereafter be given to auditors under the provisions of the said first-recited Act or any other Act for the audit of accounts relating to rates for the relief of the poor; and all sums disallowed or reduced, or charged as balances against any person by such auditor, shall be recovered, on the application of such auditor (which application he is hereby empowered to make), in the same way as penalties and forfeitures under the said first-recited Act, from the person making or authorizing such illegal payment; and within thirty days of such audit each district board shall cause to be printed, and shall forward by post or otherwise to each board of guardians, and to the officers of every parish within their district, an abstract of the accounts of their district, so audited, in such form as the Poor Law Commissioners may direct.

Powers of auditors.

Recovery of sums charged against accounting parties.

Guardians may visit and inspect asylums.

L. Every guardian of every union or parish included in any such district formed for the maintenance of an asylum shall at all reasonable times be entitled to enter the asylum of such district, and inspect any part thereof, and enter his remarks thereon in a book to be kept for that purpose.

Children may be sent to district schools from parishes and unions not combined in any district.

LI. In any case where a parish or union is not combined in a school district . . . the board of guardians of such parish or union may, with the consent of the board of such district, send to such district school any infant poor not above the age of sixteen years, being chargeable to any such parish or union, who are orphans or are deserted by their parents, or whose parents or surviving parent or guardians are consenting thereto; and the costs of the maintenance, employment, and instruction of such infant poor in such district schools shall be paid by such board of guardians to such district board, according to such rates and at such times and in such manner as may be agreed upon by the said boards, with the approbation of the said commissioners; and such infant poor while at such district school shall be subject to the control and management of such district

Payment of expenses of

Sect. 50.

Note.

Extended by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 23, to any asylum provided under that Act.

Sect. 51.

Note.

The words omitted from this section limiting its operation to cases where any part of the parish or union was not more than twenty miles from a district school were repealed by the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 16, and again by the S. L. R. Act (No. 2), 1874.

Further provision is made by the Poor Law (Certified Schools) Act, 1862 (25 & 26 Vict. c. 43), for enabling guardians to send pauper children to particular schools.

board and their officers, in like manner as if the said parish or union were combined in such school district by virtue of this Act.

Sect. 51. maintenance, &c. of such children.

[Sect. 52. *Repealing* 7 *Geo.* 3, *c.* 29, *and* 2 *Geo.* 3, *c.* 22: Repealed by the S. L. R. Act (No. 2), 1874.]

Class of destitute poor to be relieved in district asylums.

LIII. Every district board for the management of any asylum under this Act shall make provision for the temporary relief and setting to work therein of any poor person found destitute within any such district, not professing to be settled in any parish included therein, and not known to have any place of abode there, and not being charged with any offence under the provisions of the Vagrancy Act, 1824, or of any other Act; and, subject to any regulations of the said commissioners, every such district board or any committee thereof may direct the mode of admission of such poor persons to the asylum of such district; and it shall be lawful for any constable of the metropolitan police, or of the police of the city of London, or any constable of the police acting under the chief constable of any county, district, or division, or any constable of the city, towns, or boroughs respectively named in the schedule marked (B.) annexed to this Act, personally to conduct any such poor person found wandering abroad within any district to any asylum established in such district in pursuance of this Act, and such poor person shall, if there be room in such asylum, be temporarily relieved therein; and the sergeant of police or constable conducting such poor person shall sign his name in a column, headed to the following effect, in a book to be kept, in such form and manner as the said commissioners may from time to time direct, by some officer of every such asylum, in which shall be entered the alleged names of all poor persons admitted:

5 Geo. 4, c. 83.

Mode of admission into asylum.

Police to conduct poor persons to asylums.

Book to be signed by police.

"We, the undersigned constables of the metropolitan police [*or* of the police of the city of London, *or* constable, &c., as the case may be], do severally declare, so far as each of us is concerned therein, that we have conducted the poor persons (whose alleged names are set opposite our respective signatures) to the asylum of district, the said poor persons having been by us found wandering abroad, and apparently destitute, and not having committed or being charged with any offence punishable by law, within our knowledge."

And every such book, purporting to be signed and to be certified at the foot of the page by the officer keeping the same, shall be received in all courts of justice as sufficient evidence of the fact that the poor persons described therein were chargeable to the said district at the time of their admission, and, if not contradicted by other evidence, of such other particulars as are therein duly recorded; and all poor persons admitted into any such asylum shall, if they desire it, be relieved with food and lodging for the night succeeding such admission; but no such poor person

Regulations with respect to poor persons admitted into asylums.

Sect. 53.

shall be detained against his will for any longer space of time than until the ordinary hour of breakfast of the day next succeeding his admission, and four hours afterwards, unless such poor person, since his admission, have become lawfully punishable for misbehaviour within such asylum, in which case it shall be lawful to detain such poor person for a space of time sufficient for such punishment; but no poor person shall be punished for any offence or misbehaviour in any asylum by confinement for any longer space of time than twenty-four hours, and such longer space of time as may be necessary in order to have such person before a justice of the peace; and if any poor person so admitted as aforesaid shall be disabled by sickness, or shall be unwilling to depart from such asylum, he may receive relief therein, if he consent to remain, and conform to the rules of the house, until the next meeting of the district board or of some committee (which such district board, subject to the rules of the said commissioners, is hereby authorized to appoint), who shall give such directions respecting such poor person as they may deem right, by discharging him from such asylum, with a direction to apply for relief in the district where he has dwelt, or otherwise as to them may seem fit: Provided always, that, except under a medical certificate of sickness, it shall not be lawful for the officers of any such asylum to relieve any poor person for a longer period continuously in such asylum than is sufficient to enable his case to be decided by the district board or committee as aforesaid: Provided also, that if any person received into such asylum shall wilfully give a false name, or make a false statement, or shall be proved to have given two or more different names on two or more different occasions, when so received into any such asylum, such person not having lawfully changed her name in consequence of marriage, such person shall be deemed a rogue and vagabond within the meaning of the Vagrancy Act, 1824.

Persons making false statements, &c. to be deemed rogues and vagabonds under 5 Geo. 4, c. 83.

Liabilities of persons relieved in such asylums.

LIV. Every poor person relieved in any asylum under the management of any district board shall be liable to the same obligations in respect of the relief afforded to him as if the same were afforded in any workhouse, and shall be subject to the same punishment and penalties as are provided by an Act passed in the fifty-fifth year of the reign of King George the Third, intituled "An Act to prevent poor Persons in Workhouses from Embezzling certain Property provided for their use; . . . and for other purposes therein mentioned relating to the poor," or under any other Act or Acts, for refusal or neglect to work, in pursuance of any regulations or directions prescribing a task of work, or for wilfully destroying or injuring his own clothes or

55 Geo. 3, c. 137.

Sect. 54.

Note.

The provisions of this section are extended by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 23, to any asylum provided under that Act.

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any property, or for absconding with any clothes or other articles provided by such district board, or for damaging any of the property of such district board, or for any misbehaviour in such asylum, by disobedience of the rules and regulations in force therein, or otherwise, as if he were relieved or set to work in any workhouse under the control of a board of guardians acting under the orders and regulations of the said commissioners in pursuance of the said first-recited Act: Provided always, that nothing in this Act contained shall relieve any guardian, overseer, relieving officer, or master of a workhouse from any obligation now imposed upon him by law with regard to the relief of cases of sudden and urgent necessity, or shall prevent the reception into a workhouse of any person labouring under dangerous illness, or shall authorize the transfer to an asylum of any person received into such workhouse in a case of dangerous illness, unless with the certificate in writing of a medical man duly licensed to practice, to the effect that such person is then in a fit state to be removed, and stating the manner in which such person, in the opinion of such medical man, may be safely removed.

Proviso.

LV. If any poor person return and become chargeable in the asylum of any district after removal from any parish in such district, he shall be deemed to have returned and become chargeable, without any certificate, to the parish whence he has been legally removed by order of two justices of the peace, within the meaning of the Vagrancy Act, 1824.

Penalty for returning after removal.

5 Geo. 4, c. 83.

LVI. For the purposes of relief, settlement, and removal of poor persons, and the burial of the poor, the workhouse of any union or parish, and every such district school, shall be considered as situated in the parish to which each poor person

Workhouses and district schools to be deemed to be situate in

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Sect. 55.

Note.

As to a pauper's returning to a parish or union from which he has been removed, see sect. 3 of 5 Geo. 4, c. 83. The provisions as to obtaining a certificate from the churchwardens and overseers were contained in 8 & 9 Will. 3, c. 30, s. 1, which was repealed by the S. L. R. Act, 1867.

Sect. 56.

Note.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 10, it is provided that for the purposes of burial of any poor person dying in the workhouse of any union, such workhouse shall be considered as situated in the parish in the union where such poor person resided last previously to his removal to the workhouse. By sect. 1 of the same Act all cost of relief, and registration fees and expenses, shall be charged upon the common fund of the union.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 21, the provision as to the registration of births and deaths in a workhouse contained in this section is extended to the case of a workhouse which is situated in two parishes, so that the registration shall take place in the parish to which the workhouse belongs, or if the parishes be not both in the

Sect. 56.

every parish of an union, &c.

Registry of births and deaths therein.

respectively to be relieved, removed, or buried, or otherwise concerned in any such purpose, is or has been chargeable: Provided always, that every birth and death within any such workhouse or building shall be registered in the parish or place in which such workhouse or building is locally situated; and all fees for registering births and deaths in any such workhouse or building shall be charged by the guardians to the parish or union to which the person dying or the mother of the child respectively is chargeable.

Committal of offenders in workhouses to the gaol of the place to which the offenders belong.

LVII. If any person be convicted before any justice or justices of any offence committed in any workhouse, while maintained therein, or of absconding from any workhouse, and carrying away clothes or other property therefrom, and be liable to be committed for such offence to any gaol or house of correction, it shall be lawful for the justice or justices before whom such person is convicted to commit such person to the common gaol or house of correction of the county or place in which the *parish* is situated to which such person at the time of the commission of the offence was chargeable, notwithstanding that such workhouse may not be situated in such county or place, and notwithstanding that such justices may not be justices of such county or place; and if such person have not goods or money within such county or places sufficient to bear the charges of himself and those who convey him, then such charges shall be defrayed at the expense of the county, place,

Cost of removal thither.

Sect. 56.

Note.

same union then in that parish of the union to which the workhouse belongs in which any part of the workhouse is situated.

The trustees of the poor of a parish under a local Act paid to the registrar of births and deaths for the district within which their parish was situate, fees for registering the births and deaths in a workhouse situate within their parish, but built by and belonging to the guardians of another parish for the reception of the poor of such other parish. It was held that under this section the guardians of such other parish were liable to repay to the trustees the registration fees so paid by the trustees (*Reg.* v. *St. Luke's, Middlesex*, 26 L. T. 214; 20 J. P. 51).

An illegitimate child born in a workhouse is deemed to be born in the parish [or union] to which the mother was chargeable when admitted to the workhouse: this is the case either under this section or under 54 Geo. 3, c. 170, s. 3 (*Reg.* v. *St. Clement Danes*, 3 B. & S. 143; 32 L. J. M. C. 25; 7 L. T. (N. S.) 324; 26 J. P. 741).

Sect. 57.

Note.

The provisions of this section are altered by the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 9, by practically substituting for the words "in which the parish is situated" the words "in which the major part of the union is situated"; and are extended by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 23, to any asylum provided under that Act.

For the punishment of other offences in a workhouse, see the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 5.

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or parish, according to the provisions of an Act passed in the twenty-seventh year of the reign of King George the Second, intituled "An Act for the better securing to Constables and others the Expenses of conveying Offenders to Gaol; and for allowing the charges of poor persons bound to give evidence against felons"; provided that in cases of such conviction and committal as aforesaid all further proceedings in respect thereof may be taken, and the costs and charges of such proceedings, and for the maintenance of such offender in such gaol or house of correction, shall be payable, in like manner and under the like authority as such proceedings would have been taken, or as such costs and charges would have been payable, in case the offence had been committed within the parish or place to which such offender was chargeable at the time when he committed such offence.

27 Geo. 2, c. 3.

LVIII. And whereas by the said Act passed in the fifty-fifth year of the reign of King George the Third, it is enacted, that if any person or persons shall desert or run away from any workhouse or workhouses, and carry away with him, her, or them any clothes, linen, or other goods as aforesaid, such person or persons, being thereof lawfully convicted, either by the confession of such party or parties, or by the oath or oaths of one or more credible witness or witnesses, before any justice or justices of the peace, shall by such justice or justices of the peace be forthwith committed to the common gaol or house of correction, there to remain without bail or mainprize for the space of three calendar months; and it is further enacted, that in case any person or persons maintained in any public workhouse or workhouses established for the relief, maintenance, and employment of the poor shall refuse to work at any work, occupation or employment suited to his, her, or their age, strength, and capacity, or shall be guilty of drunkenness, or other misbehaviour, every such person or persons, being thereof lawfully convicted before any justice or justices of the peace, shall thereupon by such justice or justices of the peace be committed to the common gaol or house of correction, there to remain without bail or mainprize for any period of time not exceeding twenty-one days, and during such time to be kept to hard labour: And whereas it is desirable that justices of the peace should have a power to commit such persons as are first mentioned for a period less than three months, and such persons as are last mentioned for a period greater than twenty-one days, in cases of repeated offences: Be it therefore enacted, that it shall be lawful for any justice or justices to commit any such person as is first mentioned to the common gaol or house of correction, to be kept there in the manner provided by the said

55 Geo. 3, c. 137, s. 2.

Period of imprisonment for offences.

Sect. 58.

Note.

By the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 8, a person committed to prison as herein provided may be kept to hard labour.

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recited Act for any period not less than seven days nor greater than three months, and to commit any such persons as are last mentioned, in case such persons have been before convicted of a like offence, to the common gaol or house of correction, in manner provided by the said Act, for any period not exceeding forty-two days.

Costs of certain civil and criminal proceedings may be paid out of funds of unions or parishes.

LIX. It shall be lawful for any board of guardians or district board to pay out of the funds in their hands the reasonable costs of the apprehension and of the prosecution of any person who, according to the laws in force at the time being, is charged with refusing or neglecting to maintain himself or his family, or with running away and leaving his family chargeable, or whereby such family has become chargeable, or with wilfully neglecting or disobeying the rules, orders, and regulations of the Poor Law Commissioners, or with any offence or misbehaviour in any workhouse, or with deserting or running away from any workhouse, and carrying away clothes, linen, or other goods or things belonging to any workhouse, or given or procured or provided as or for relief, or with neglect or disobedience of the reasonable and lawful orders of justices or guardians, or of any district board, in the administration of the laws relating to the relief of the poor, or with obstructing or assaulting any officer engaged in the administration of the laws for relief of the poor, or with fraudulently obtaining, stealing, purloining, embezzling, wasting, or injuring, or wilfully misapplying, any property applicable to or connected with the relief of the poor, or with any offence directly affecting the administration of the laws for the relief of the poor, and the reasonable costs of apprehending and prosecuting any officer who may have been employed in the administration of the laws for the relief of the poor for any neglect or breach of any duty of his office, or for any maltreatment or abuse of any poor person ; and, subject to the approval of the said commissioners, every board of guardians or district board shall pay the costs of all legal proceedings taken by any

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Note.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 9, the costs and expenses of prosecutions under this section shall in all cases be charged to the common fund, so that the words of this section printed in italics are practically repealed.

The provisions of this section are extended by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 23, to any asylum provided under that Act.

By the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 5, the guardians are empowered to reimburse their officers for damage to the property of such officers by persons applying for relief.

The guardians may also pay the expenses of prosecutions for refusing to perform a task of work set to paupers receiving outdoor relief (29 & 30 Vict. c. 113, s. 15); of offences under the Vaccination Acts (30 & 31 Vict. c. 84, s. 33); of offences under the Prevention of Cruelty to Children Act, 1894 (57 & 58 Vict. c. 41, s. 21); and of offences against apprentices and servants, and of assaults upon persons under sixteen years of age (24 & 25 Vict. c. 100, ss. 26, 73).

auditor or under his direction, for the protection of the poor rates or property of any parish, union, or district, or taken by any other person whom the board of guardians or district board have authorized or directed to institute such prosecution or legal proceedings; and to the extent to which any such costs may not be repaid by the offending or other party, or from the county, liberty, or borough rates, the guardians of any union then may, in any of the cases aforesaid, having due regard to the circumstances of the case, and subject to the approval of the Poor Law Commissioners, charge such expenses [*either*] to the common funds of the union [*or to any parish or parishes comprised therein*]; and the district board of any district may, having like regard to the circumstances of the case, and subject to the like approval of the Poor Law Commissioners, charge such expenses either to the funds of the whole of such district or on any one or more of the unions and parishes comprised therein.

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LX. The costs, charges, and expenses properly incurred by the officers of the parish in making out, preparing, printing, and collecting the lists of persons qualified to serve on juries, according to the provisions of the Juries Act, 1825, and relating thereto, shall be paid and allowed to them out of the poor rates of the parish, together also with all expenses properly incurred by the same officers on the perambulation of the parish, and in setting up and keeping in proper repair the boundary stones of the parish, provided that such perambulations do not arise more than once in every three years.

Expenses of jury lists under 6 Geo. 4, c. 50, and of boundaries of parishes may be paid out of poor rates.

LXI. [*Recital of 2 & 3 Vict. c. 84, s. 2, and that it was expedient that such collectors as are mentioned therein should in certain cases be invested with other of the duties of overseers of the poor.*] The inhabitants in vestry assembled of any parish situated

Collectors or assistant overseers appointed under order of

Sect. 60.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 32, as amended by the Local Government Act, 1884 (51 & 52 Vict. c. 41), s. 3 (1), county councils are required to make allowances to clerks of justices for their services in relation to the revision and allowance of the jury lists, to be paid out of the county stock or funds.

Note.

Sect. 61.

The words in italics in the enacting part of this section are specifically repealed by the Local Government Act, 1894 (57 & 58 Vict. c. 73), s. 89; and by sect. 81 (6) of the same Act there is repealed so much of any enactment as authorizes the appointment of assistant overseers: so that in effect the whole of this section is in effect repealed so far as regards assistant overseers.

Note.

It was held upon this section that although there was and is no explicit statutory authority for the commissioners to make an order directing the guardians to appoint an assistant overseer, yet the words of the section by implication enacted that the appointment of an assistant overseer by guardians under an order of the commissioners which, whether it were good or bad, had not been

Sect. 61.

commissioners may be appointed to discharge duties of overseers as if appointed assistant overseers under 59 Geo. 3, c. 12.

Where commissioners appoint collectors or overseers, other powers of appointing such officers to cease;

saving for powers of appointment under local Acts in large parishes.

Overseers not discharged from liability.

Assistant overseers to obey overseers.

59 Geo. 3, c. 12.

Security by collectors and assistant overseers.

within the district for which any collector or assistant overseer appointed under any order of the said commissioners now acts may appoint such collector or assistant overseer to discharge all the duties of an overseer of the poor, in addition to those of collector of poor rates for such parish, and in the same manner as if he were appointed thereto as an assistant overseer under the provisions of the Poor Relief Act, 1819, [*and whenever any such collector or assistant overseer has been or may be appointed under any order of the said commissioners, and whilst the said order remains in force, the powers of any vestry or parish officers, or of any other persons, other than the board of guardians of such parish or union* (*if a board of guardians have been constituted*), *to appoint any collector or assistant overseer, and* (*if so directed by the said commissioners*) *every appointment under such powers, shall cease: Provided always, that where the appointment of such assistant overseer shall have been made under the powers of any local Act of Parliament of a parish containing more than twenty thousand persons, such appointment shall continue, and the powers of such local Act, as to any future appointment of an assistant overseer, shall be exercised, but subject always to the powers of the Poor Law Commissioners, notwithstanding the provisions of this Act:*] Provided always, that no overseer shall be discharged by the appointment of any such collector or assistant overseer from his responsibility for the provision and supply of monies necessary for the relief of the poor, or for any of the purposes to which the rates made for the relief of the poor may be by law applicable; and every collector appointed or to be hereafter appointed as aforesaid, and every assistant overseer appointed or hereafter to be appointed, in pursuance of the Poor Relief Act, 1819, or of the orders of the said commissioners shall, subject to the rules of the Poor Law Commissioners, obey, in all matters relating to the duties of overseer, all directions of the majority of the overseers of the parish for which he acts; and the said commissioners shall have the same powers with respect to all collectors or assistant overseers as are given to them by the said first-recited Act with respect to paid officers; and every collector or assistant overseer appointed as aforesaid shall be bound to give to the board of guardians of the parish or union, or if there be no such board of guardians then to the overseers of the parish for

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Sect. 61.

Note.

rescinded or quashed, operated to deprive the vestry of its right to elect an assistant overseer under 59 Geo. 3, c. 12, s. 7 (*Reg.* v. *Greene*, 17 Q. B. 793; 21 L. J. M. C. 137).

Where security has been taken under 59 Geo. 3, c. 12, s. 7, the provisions of this section do not transfer such bonds to the guardians, but merely give the guardians the same powers which the vestry formerly had of controlling suits on such bonds. Such securities should, however, be delivered into the custody of the guardians (*Skelton* v. *Rushby*, 4 Exch. 545; 19 L. J. M. C. 29).

As to release of sureties, see note to 59 Geo. 3, c. 12, s. 7.

Sect. 61.

which such collector or assistant overseer may act, sufficient security for the due performance of his duties; and no bond or any other security entered into in pursuance of this Act, or of the Poor Relief Act, 1819, shall be charged or chargeable with, or be deemed to be or to have been subject or liable to, any stamp duty whatsoever; and wherever any parish for which such collector or assistant overseer may be appointed is situated in an union, or is governed by a board of guardians, every bond or security given by any officer, in pursuance of this Act, or of the Poor Relief Act, 1819, or of the said first-recited Act, and not contrary to the rules of the said commissioners, shall, if the guardians shall see fit, be put in suit by the board of guardians of the union in which the parish or district for which the officer acts or has acted may be situated, notwithstanding that such bond or security may have been originally given to the overseers of a parish, or to any other persons; and every bond or security given by or on account of any officer appointed by any board of guardians, for the due performance of the office to which he is so appointed, shall remain in full force and effect, notwithstanding any change in district for which such officer may have been appointed or required to act at the time when such bond or security was given, or the addition of any parish to or the separation of any parish from such union since the giving of such security.

59 Geo. 3, c. 12.

How securities shall be enforced.

59 Geo. 3, c. 12.

securities not affected by change of districts.

LXII. If the board of guardians of any parish or union make application to the said commissioners to direct the appointment

Poor Law Commissioners, on

Sect. 62.

Note.

The mode of describing collectors of poor rates in indictments for embezzlement and larceny is prescribed by the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 15.

For the powers of the Local Government Board with respect to paid officers, see sects. 46, 48 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76).

It was held, in 1856, that the mere appointment of a collector by guardians under the direction of the commissioners in pursuance of this section did not imply a contract on the part of the guardians to pay him a salary, so that a collector appointed on the terms of receiving a poundage on the rates could not make the guardians liable to pay the amount (*Smart* v. *West Ham Union*, 11 Exch. 867; 25 L. J. Ex. 210; 26 L. T. 285; 20 J. P. 596). The payment of the collector's remuneration is now regulated by art. 4 of a Gen. Ord. of June 17th, 1886.

Where a collector of rates who had given a bond to the previous overseers by name, the condition being that he should duly account to the then overseers and their successors in office, refused to account to the succeeding overseers (having already accounted to the previous overseers) on the ground that he was not their agent or liable to account to them, a decree was made by the M.R. for an account and delivery up of the books; but no account settled between the defendant and the late overseers to be reopened. A retired collector cannot retain the rate-books; though for purposes

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application of board of guardians, may direct appointment of paid collector of poor rates.

Other powers of appointment to cease.

of a paid collector of the poor rates in such parish or union, or in any parish or parishes of such union, it shall be lawful for the said commissioners, by order under their hands and seal, to direct the said board of guardians to appoint such a collector; and the said commissioners shall have the same powers with respect to such collectors as are given to them by the said first-recited Act with respect to paid officers; and all powers of the inhabitants of any parish in vestry assembled, or of justices of the peace, or of any persons, other than the board of guardians of such parish or union, to appoint any collector for any such parish as aforesaid, and (except when otherwise directed by the said commissioners) all appointments under such powers shall cease.

Penalty on overseers neglecting to obtain a supply of funds for the relief of the poor.

LXIII. If the overseers of any parish wilfully neglect to make or collect sufficient rates for the relief of the poor, or to pay such monies to the guardians of any parish or union as such guardians may require, and if by reason of such neglect any relief directed by the board of guardians to be given to any poor person be delayed or withheld during a period of seven days, every such overseer shall upon conviction thereof forfeit and pay for every such offence any sum not exceeding twenty pounds.

In what manner guardians under local Acts shall conduct their proceedings.

LXIV. The guardians of every parish or union acting under any local Act for the relief of the poor shall hold their meeting once in every fortnight, or oftener, and in all matters concerning the relief of the poor shall act as a board at a meeting, and not

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Sect. 62. Note.

of account he is entitled to free access to them (*Sellar* v. *Griffin*, 33 L. J. Ch. 6; 32 Beav. 542; 8 L. T. (N. S.) 230; 9 Jur. (N. S.) 612; 27 J. P. 340).

And where it was necessary to enable a collector of poor rates to perform the duties of his office, that he should have the rate-books in his possession, held that a *mandamus* would lie to compel the overseers of the parish, who had them in their custody, to deliver them to the collector, there being no legal impediment to their so doing (*Reg.* v. *Christ Church, Spitalfields*, 7 E. & B. 409; 27 L. J. M. C. 23; 3 Jur. (N. S.) 1074).

Sect. 63. Note.

As to the manner of proceeding by guardians in case the contributions from overseers are in arrear, for the recovery thereof, see the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1, as amended by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 9.

Sect. 64. Note.

The first proviso to this section (in brackets) is repealed as regards the metropolis by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 78.

As to asylum districts, see sects. 40—46, *supra*, and the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 14.

As to audit districts, see sect. 32, *supra*, and the District Auditors Act, 1879 (42 & 43 Vict. c. 6).

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individually; and whenever under any such local Act there is no person particularly designated or authorized to act as chairman, such guardians shall elect and appoint annually, and from time to time as vacancies may occur, a chairman and vice-chairman of such board, and shall at any meeting at which no chairman or vice-chairman is present elect a temporary chairman to preside at that meeting: [Provided always, that when the relief of the poor has been hitherto administered in any parish by guardians appointed under a local Act, and not by overseers of the poor, if such parish, according to the last enumeration of the population published by authority of Parliament, contain more than twenty thousand persons, it shall not be lawful for the said commissioners, after the passing of this Act, without the consent in writing of two-thirds at least of such guardians to declare such parish to be united with any other parish for the administration of the laws for the relief of the poor, any thing in the said first-recited Act to the contrary notwithstanding]; provided, however, that nothing herein contained shall prevent the said commissioners from including any such last-mentioned parish in a district for providing and managing an asylum for the temporary relief of and setting to work of destitute houseless poor, or from including such parish in a district for the audit of accounts, under the provisions of this Act, except as herein-after enacted.

Parishes with guardians under local Acts, with a population exceeding 20,000, not to be united without consent of guardians;

except for providing asylums for destitute houseless poor, and for audit of accounts.

LXV. Provided always, that where any parish which is not governed by a board of guardians, constituted under the said first-recited Act, or comprised in any union, but is governed by guardians or directors under a local Act, and contains a population exceeding twenty thousand persons, according to the last enumeration of the population published by the authority of Parliament, have before the first day of January in this present year adopted and acted upon the provisions of the Vestries Act, 1831, and that where any two or more parishes situated within the district of the metropolitan police, containing together a population exceeding twenty thousand, according to the last enumeration of the population published by the authority of Parliament, have been united for the purposes of rating or settlement under the provisions of any local Act, and are governed by guardians or directors under such local Act, and have not been comprised in any union formed under the provisions of the said first-recited Act, and have an auditor or auditors appointed and acting under any provisions of such local Act relating to the audit of accounts in such parishes, it shall not be lawful to include such parish or such two or more

Parishes, with a population exceeding 20,000, under local Acts, having adopted 1 & 2 Will. 4, c. 60, united parishes of more than 20,000 population in the metropolitan district, having auditors, not to be included in any district for audit of accounts.

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Note.

This section is repealed as regards the metropolis by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6, s. 78).

By the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 20, inspectors of the Local Government Board may attend and take part in all proceedings of every board of guardians.

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Assistant commissioner may be present at audit, &c.

parishes respectively in any such district for the audit of accounts: Provided always, that it shall be lawful for any assistant Poor Law Commissioner to be present at any audit as if the same were a meeting of a board of guardians or vestry, and to inspect, examine, and take copies or extracts from any books, accounts, or vouchers produced at such audit.

Commissioners may separate parishes from unions, or add parishes to unions, under 4 & 5 Will. 4, c. 76, without the consent of the guardians of the union.

LXVI. [*Recital of so much of* 4 & 5 *Will.* 4, c. 76, *s.* 32, *as relates to the dissolution of unions and separation or addition of parishes from or to unions with concurrence of a majority of two-thirds of the guardians.*] It shall be lawful for the said commissioners to exercise the powers given to them by the said Act for the separating of any parish or parishes from any union formed under the provisions of the said Act, or for the addition of any parish or parishes to any such union, without the concurrence of the guardians of such union respectively in such separation or addition; and the said commissioners may, if they see fit, cause a board of guardians to be elected under the provisions of the said Act for any single parish separated from any union in pursuance hereof, notwithstanding the provisions of any local Act in force in such parish.

[Sect. 67. *Repealing* 55 *Geo.* 3, *c.* 137, *s.* 7, *as to notices of contracts for supplying workhouses:* Repealed by the S. L. R. Act, (No. 2), 1874.]

Officers may conduct proceedings before justices although not solicitors.

6 & 7 Vict. c. 73.

LXVIII. Notwithstanding anything contained in the Solicitors Act, 1843, it shall be lawful for any clerk or other officer to any board of guardians constituted under the said first-recited Act or under any local Act, or to any district board, if duly empowered by such board, to make or resist any application, claim, or complaint, or to take and conduct any proceedings on behalf of such board before any justice or justices of the peace at petty or special sessions or out of sessions, although such clerk or officer be not an attorney or solicitor, or have not obtained a stamped certificate in pursuance of the provisions of the said Act.

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Note.

See further as to the powers of the Local Government Board in respect of the dissolution and alteration of unions, the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 4; the Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2); and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 11.

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Note.

The Solicitors Act, 1843 (6 & 7 Vict. c. 73), is amended by the Solicitors Act, 1860 (23 & 24 Vict. c. 127), and by sect. 33 of the latter Act the provisions of this section are preserved.

A similar enactment to that in this section is contained in the Poor Law Act, 1842 (5 & 6 Vict. c. 57), s. 17, but this section was rendered necessary in consequence of the passing of the Solicitors Act, 1843.

Sect. 69.

Certificates of chargeability according to form in schedule (C.).

Admission of documents in evidence.

LXIX. It shall be lawful for any board of guardians or district board, at any meeting thereof, to make a certificate in the form or to the effect contained in the schedule of this Act marked (C.), and every such certificate, and every copy of a minute of any order, complaint, claim, application, or authority of any such board of guardians or district board, purporting respectively to be signed by the presiding chairman of such guardians or district board, and to be sealed with their seal, and to be countersigned by their clerk, shall, unless the contrary be shown, be taken to be sufficient proof of the truth of all the statements contained in such certificate, and of the directions respecting such order, complaint, claim, or application having been given as alleged in the copy of such minute, and shall be received in evidence accordingly by and before all courts of justice and all justices, without any proof of the signatures or of the official characters of the persons signing the same, or of such seal, or of such meeting; and for the purpose of making any order of removal or other order no further or other evidence of chargeability than such certificate shall be required, provided that every such order bear date within twenty-one days next after the day of the date of such certificate.

Justices at petty sessions or out of sessions, may

LXX. In any proceedings to be had before justices in petty or special sessions, or out of sessions, under the provisions of this Act, or of any of the Acts required to be construed as one

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Note.

By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 11, such a certificate of chargeability as in this section mentioned shall be received within the space of twenty-one days from the date thereof as sufficient evidence of the chargeability of the person named therein unless the contrary be otherwise shown.

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Note.

As justices have no power under this section to punish witnesses for not producing documentary evidence, it is usual, when it is required to have books or papers produced, to sue out a subpœna from the Crown Office of the Queen's Bench Division, and if that be disobeyed after a personal service of it upon the party to whom it is directed, the Queen's Bench Division, on application, will punish the disobedience, as a contempt, by an attachment. Where, for instance, a Crown Office subpœna issues, requiring an overseer or vestry clerk to produce the rate-books before justices, for the purpose of their making an order of removal, and it is disobeyed, the Queen's Bench Division, on application, will award an attachment against the party (*Reg.* v. *Greenaway*, 7 Q. B. 126; 14 L. J. M. C. 190; 9 J. P. 837; *Reg.* v. *Carey*, 7 Q. B. 126; 14 L. J. M. C. 191). And where, upon an application to justices for an order for the removal of a pauper to the parish of Raddington, one of the overseers of Raddington being served with a Crown Office subpœna on the part of the removing parish, attended, was sworn, but refused to give evidence of the settlement in his parish: upon motion for an attachment against him, it was held that he was bound to give evidence (*Reg.* v. *Vickery*, 17 L. J. M. C. 129). Another advantage

Sect. 70. summon witnesses, and compel them to attend and give evidence.

Act herewith, if any party to such proceedings request that any person be summoned to appear as a witness in such proceedings, it shall be lawful for any justice to summon such person to appear and give evidence upon the matter of such proceedings; and if any person so summoned neglect or refuse to appear to give evidence at the time and place appointed in such summons, and if proof upon oath be given of personal service of the summons upon such person, and that the reasonable expenses of attendance were paid or tendered to such person, it shall be lawful for such justice, by warrant under his hand and seal, to require such person to be brought before him, or any justices before whom such proceedings are to be had; and if any person coming or brought before any such justices in any such proceedings refuse to give evidence thereon, it shall be lawful for such justices to commit such person to any house of correction within their jurisdiction, there to remain without bail or mainprize for any time not exceeding fourteen days, or until such person shall sooner submit himself to be examined, and in case of such submission the order of any such justice shall be a sufficient warrant for the discharge of such person.

Rules, &c. of commissioners printed by the printer authorized by Her Majesty to be received in evidence.

LXXI. And whereas it is provided by the first-recited Act that all rules, orders and regulations made by the said commissioners under the authority of the said Act shall be as valid and binding, and shall be obeyed and observed, as if the same were specifically made by and embodied in the said Act; but no sufficient provision is made for bringing such orders to the knowledge of courts of justice: Be it therefore enacted, that any copy of any such rule, order, or regulation, printed by the printer duly authorized by Her Majesty or any of her royal predecessors or successors, shall, after the lapse of fourteen days from the date thereof, be received in evidence, and judicially taken notice of, and shall, until the contrary be shown, be deemed sufficient proof that such order was duly made, and is in force.

Sect. 70. Note.

of a Crown Office subpœna is, that if it require the production of any written instrument, and the same be not produced, not only may the party disobeying the subpœna be punished by attachment, but secondary evidence may be given of the instrument; whereas a summons has no such effect (*Reg.* v. *Orton*, 7 Q. B. 120; 9 J. P. 520).

There is no power under this section to make an order for the examination of a witness who is unable to travel (*Ex parte Kimbolton*, 5 L. T. (N. S.) 347).

Sect. 71. Note.

Sect. 42 of 4 & 5 Will. 4, c. 76, is the enactment referred to in the recital.

The provisions of this section are enlarged and to some extent superseded by the Documentary Evidence Acts, 1868 and 1882 (31 & 32 Vict. c. 37, s. 2; 45 & 46 Vict. c. 9, s. 2), and by the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), s. 5.

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LXXII. And whereas it is provided by the said first-recited Act that a written or printed copy of every rule, order, or regulation of the said commissioners shall, before the same shall come into operation in any parish or union be sent by the said commissioners by the post, or in such manner as the commissioners shall think fit, sealed or stamped with their seal, addressed to the overseers of such parish, the guardians of such union, or their clerk, and to the clerk to the justices of the petty sessions held for the division in which such parish or union shall be situate: And whereas the proof of such sending is often attended with great expense and difficulty: Be it enacted, that it shall not in any civil or criminal proceeding be necessary to prove such sending, except to the clerk to the guardians of the union or of the parish, or, where there shall be no guardians, to the overseers of the parish, within which such rule, order, or regulation is intended to have effect; and that it shall in no case be necessary to prove such sending, unless reasonable notice in writing be given, by the party requiring such proof, to the party upon whom such proof would lie, that such proof will be required; and whenever it is proved to the satisfaction of the court that the said rule, order, or regulation was sent, and that the party was cognizant thereof, such court shall order the reasonable expenses of the witness or witnesses proving the same to be paid by the party who has given such notice, and such expenses shall be recoverable as penalties and forfeitures under the first-recited Act.

Proof in legal proceedings of the transmission of rules, &c. of commissioners.

Expenses of proof.

LXXIII. In all cases where any messuages, lands, or hereditaments, or any estates or interest therein, have or hath been conveyed or assured, or purported to be conveyed or assured,

Conveyances, &c. for workhouses to be good,

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Note.

Sect. 18 of 4 & 5 Will. 4, c. 76, is the enactment referred to in the recital.

Copies of orders of the Local Government Board need not now be sealed or stamped with their seal (Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 14).

It is not necessary to prove sending of the order constituting a board of guardians where the board has acted for three years (Poor Law Amendment Act, 1847 (10 & 11 Vict. c. 109), s. 25).

Sect. 73.

Note.

The whole of 9 Geo. 3, c. 36, is now repealed (except a portion of sect. 5) by 45 Geo. 3, c. 101, and by the Mortmain and Charitable Uses Act, 1888 (51 & 52 Vict. c. 42), and by sect. 13 of the latter Act enactments referring to the repealed portions of 9 Geo. 3, c. 36, are to be construed as referring to the Act of 1888.

The provisions of this section cure only the want of enrolment, and, if a lease or conveyance is obnoxious to the Statutes of Mortmain in other respects, it is not validated by anything herein contained (*Webster* v. *Southey*, 36 Ch. D. 9; 56 L. J. Ch. 785; 56 L. T. 879; 35 W. R. 622; 52 J. P. 56; see note to 5 & 6 Will. 4, c. 69, s. 1).

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although not enrolled under 9 Geo. 2, c. 36.

either gratuitously or for valuable consideration, to or in trust for the churchwardens and overseers of the poor, or the overseers only, or the guardians of any parish or parishes respectively, or otherwise for the benefit of any parish or parishes respectively, or to or in trust for the guardians of any union, for the purpose of providing a workhouse or asylum, or workhouses or asylums, for the accommodation of the poor of such parish or parishes or union respectively, every such conveyance or assurance shall be deemed good and valid for all purposes whatsoever, notwithstanding that such conveyance or conveyances have not been enrolled pursuant to the statute passed in the ninth year of the reign of His late Majesty King George the Second, intituled "An Act to Restrain the Disposition of Lands whereby the same become inalienable."

Construction of Act with 5 & 6 Vict. c. 57. and previous Acts.

Interpretation of terms.

LXXIV. This Act shall be construed in the same manner as the Poor Law Amendment Act, 1842, and as one Act with the same, and with the Acts and provisions thereby required to be construed as one Act; and the word "month" shall be taken to mean calendar month; and the words "clerk of the peace" shall be taken to mean the clerk of the peace or other officer discharging any of the duties of clerk of the peace for any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, city, county of a town, town, cinque port, or town corporate; and the words "licensed minister" in the said first-recited Act, and "minister" in this Act, shall be construed to mean and include every person in holy orders, and also every person teaching or preaching in any congregation for religious worship whose place of meeting is certified and recorded according to law; and, except where it is otherwise expressly provided, all provisions in any Act now passed or hereafter to be passed, relating to the officers of boards of guardians constituted under the provisions of the said first-recited Act, or to the workhouses under the management of such guardians, shall apply to all officers appointed by any district board, and to all workhouses under the management of any district board.

Provisions as to officers, &c. of guardians to apply to officers, &c. of district boards.

Extent of Act.

LXXV. This Act shall extend only to England and Wales.

[Sect. 76. Repealed by the S. L. R. Act (No. 2), 1874.]

SCHEDULES REFERRED TO IN THE FOREGOING ACT.

[Schedule (A.). Repealed by the S. L. R. Act, 1874.]

Sect. 74.

Note.

The reference to "licensed minister" in 4 & 5 Will. 4, c. 76, will be found in sect. 19 of that Act.

SCHEDULE (B.). Schedules.

City, Towns, and Boroughs.

LIVERPOOL. LEEDS.
MANCHESTER. BIRMINGHAM.
BRISTOL.

SCHEDULE (C.). Sect. 69.

The board of guardians of the poor of the union [*or* parish of] do hereby certify, that on the day of A. B. and his wife C. B., and his child E. B., became chargeable to the parish of in the said union [*or* to the said union.]

In testimony whereof the common seal of the said guardians is hereunto affixed at a meeting of their board this day of 18 .

(L.S.) (Signed) W. J., presiding chairman of the said Board.

(Countersigned) C. D., clerk [*or* acting as clerk] to the board of guardians of .

LANDS CLAUSES ACT, 1845.

8 & 9 VICT. CHAP. 18.

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a Public Nature. [8th May, 1845.]

[The following sections are printed here as having a bearing upon the question of poor rates.]

* * * * *

CXXXIII. And be it enacted, that if the promoters of the undertaking become possessed by virtue of this or the special Until completion of works. promoters

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Note.

The expression "poor rate" in this section includes not only the rate levied for the poor, but also the "county rate" and "borough rate," inasmuch as these rates are charged upon the poor rate (*Farmer* v. *London and North Western Rail. Co.*, 20 Q. B. D. 788; 59 L. T. 542; 36 W. R. 590; and see *Burrup* v. *London and South Western Rail. Co.*, 64 L. T. 112).

Under this section the promoters are not liable to be rated for the lands taken for the purposes of the undertaking (*London, Mayor &c., of*, v. *St. Andrew, Holborn*, L. R. 2 C. P. 574; 36 L. J. M. C. 95; 16 L. T. (N. S.) 665); but they are liable until the completion of the work to make good all deficiencies in the poor rate even in respect of works, such as public streets, which can never become assessable (*Stratton* v. *Metropolitan Board of Works*, L. R. 10 C. P. 76;

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shall make good any deficiency of land tax and poor's rate caused by lands being taken.

Act, or any Act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the poor's rate, they shall from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works; and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special Act; and on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such

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Note.

44 L. J. M. C. 33; 31 L. T. (N. S.) 689). They are also liable to a civil action at the suit of the parish officers (*Wheeler* v. *Metropolitan Board of Works*, L. R. 4 Ex. 303; 20 L. T. (N. S.) 984).

Where a railway company purchased lands outside the limits of deviation, such lands were dealt with as having been taken for the purposes of the works within this section, and it was held that the railway company could not be heard as against the parish to say that the taking of the lands was *ultra vires*, and that they must make good any deficiency in the assessment of the lands taken. And as the assessment is to be made on the rental at which the houses or lands taken are valued or rated, it is not material, in computing the deficiency, that any of the houses or lands were in fact unoccupied at the time of passing the special Act (*Putney, Overseers*, v. *L. & S. W. Ry. Co.*, [1891] 1 Q. B. 182; 60 L. J. Q. B. 438; 64 L. T. 280; 39 W. R. 291; 55 J. P. 422; 7 T. L. R. 271).

If lands are taken which are not rateable at the time of passing the special Act, there is no deficiency to make good in respect of such lands (*Stratton* v. *Metropolitan Board of Works*, *supra*, p. 705.)

With regard to a special Act which contained a clause similar to this section, where, however, the words were "until the railway or the works thereof are completed and assessed, or liable to be assessed," it was held that on the completion of the portion of the railway in a particular parish, the liability of the railway company to pay the deficiency rate ceased (*East London Rail. Co.* v. *Whitechurch*, L. R. 7 H. L. 81; 43 L. J. M. C. 159; 30 L. T. (N. S.) 412; 22 W. R. 665; 38 J. P. 484; overruling *Reg.* v. *Metropolitan District Rail. Co.*, L. R. 6 Q. B. 698; 40 L. J. M. C. 113; and see *Bristol, Governors of Poor of*, v. *Bristol, Mayor, &c., of*, 18 Q. B. D. 549; 56 L. J. Q. B. 320; 56 L. T. 641; 35 W. R. 619; 51 J. P. 676).

Promoters of an undertaking become liable to make good in full a deficiency in rates under this section. After the passing of the special Act the owners of certain houses entered into an agreement under sect. 3 of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), to pay the rates upon obtaining a deduction of twenty-five per cent. The promoters took this property, and claimed in making good the deficiency in the rates to be entitled to the benefit of this deduction. *Held* that the deficiency must be computed having regard to the rateable value of the property at the time of the passing of the special Act, and that they were therefore not entitled to any deduction (*St. Leonard, Shoreditch*, v. *London County Council*, [1895] 2 Q. B. 104; 64 L. J. Q. B. 615; 72 L. T. 802; 43 W. R. 598; 59 J. P. 423).

deficiencies to the collector of the said assessments respectively; nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so, in accordance with the powers in that behalf given by the Acts for the redemption of the land tax.

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Land tax may be redeemed.

* * * * *

CXXXVI. Every penalty or forfeiture imposed by this or the special Act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices . . .

Penalties to be summarily recovered before two justices.

* * * * *

CXXXIX. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed to be applied in aid of the poor's rate of such parish, . . .

Application of penalties.

* * * * *

RAILWAYS CLAUSES ACT, 1845.

8 & 9 VICT. CHAP. 20.

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the making of Railways.

[8th May, 1845.]

[The following section is printed here as it has a direct bearing on the levying of poor rates on railways.]

* * * * *

CVII. And be it enacted, that the company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by virtue of this or the special Act, for the year ending on the thirty-first day of December or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account duly audited and certified by the directors, or some of them, and by the auditors, and shall, if required, transmit a copy of the said account, free of charge, to the overseers of the poor of the several parishes through which the railway shall pass, and also to the clerks of the peace of the counties through which the railway shall pass, on or before the thirty-first day of January then next; which last-mentioned account shall be

Annual account to be made up and a copy transmitted to the clerk of the peace, &c.

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open to the inspection of the public at all seasonable hours, on payment of the sum of one shilling for every such inspection: Provided always, that if the said company shall omit to prepare or transmit such account as aforesaid, if required so to do by any such clerk of the peace or overseers of the poor, they shall forfeit for every such omission the sum of twenty pounds.

* * * * *

POOR LAW (SCOTLAND) ACT, 1845.

8 & 9 VICT. CHAP. 83.

An Act for the Amendment and better Administration of the Laws relating to the Relief of the Poor in Scotland.

[4th August, 1845.]

[*Preamble.*]

[Only so much of this Act is here printed as relates to the removal from Scotland of English, Irish, &c., paupers.]

* * * * *

Removal of English, Irish, and Isle of Man paupers.

LXXVII. If any poor person born in England, Ireland, or the Isle of Man, and not having acquired a settlement in any parish or combination in Scotland, shall be in the course of receiving parochial relief in any parish or combination in Scotland, then and in such case it shall be lawful for the sheriff [*or any two justices of the peace*] of the county in which such parish or any portion thereof is situate, . . . to cause such poor person, his wife, and such of his children as may not have gained a settlement in Scotland, to be removed by sea or land, by and at the expense of the complaining parish, to England or Ireland, or the Isle of Man respectively, according as such poor person shall belong to England, Ireland, or the Isle of Man: . . . Provided that nothing herein contained shall prevent any *parochial board* of their inspector from making arrangements for the due and proper removal of such poor persons either by land or water, provided the arrangement be made with the consent of such poor persons themselves.

Sect. 77. Note.

By the Poor Removal Act, 1862 (25 & 26 Vict. c. 113), s. 8, so much of this section is repealed as is inconsistent with that Act. The above represents what, in the opinion of the Statute Law Revision Commissioners, remained after such repeal. The procedure is now regulated by 25 & 26 Vict. c. 113, as amended by 61 & 62 Vict. c. 21.

By the Poor Law (Scotland) Act, 1898 (61 & 62 Vict. c. 21), s. 6, the warrant of removal can only be made by the sheriff.

By the Local Government (Scotland) Act, 1894 (57 & 58 Vict. c. 58), ss. 21, 22, the powers and duties of a "parochial board" are transferred to the "parish council."

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Removing officers to have powers of constables.

LXXVIII. Every officer, constable, or other person to whom any such order of removal shall be delivered for the purpose of being carried into execution shall and may by virtue thereof detain and hold in safe custody every poor person mentioned in any such order, until such poor person shall have arrived at the place to which he is ordered to be removed, and shall and may for that purpose, in every county and place through which he shall pass in the due execution of such order, have and exercise the powers with which a constable is by law invested, notwithstanding such person may not otherwise be empowered to act as a constable for the county or place respectively through which he may have occasion to pass in carrying such order into execution, and although such order may not have been granted or backed by any judge or magistrate of such county or place.

Persons so removed again becoming chargeable to be punished.

LXXIX. If any person who has been removed to England or Ireland or the Isle of Man from any parish or combination in Scotland, under any order of removal, shall afterwards return to Scotland and apply for relief or again become chargeable, by himself or his family, to the same parish or combination, without having obtained a settlement therein, such person shall be deemed to be a vagabond under the provisions of an Act of the Scottish Parliament passed in the year one thousand five hundred and seventy-nine, intituled "An Act for Punishment of strang and idle Beggars, and Reliefe of the Pure and Impotent," and may be apprehended and prosecuted criminally before the sheriff of the county in which such parish or any portion thereof is situate, at the instance of the inspector of the poor of the parish to which he shall have so applied for relief or become chargeable, and shall upon conviction be punishable by imprisonment, with or without hard labour, for such a period as the said sheriff shall think proper, not exceeding two months.

1579, c. 74.

* * * * *

POOR REMOVAL ACT, 1845.

8 & 9 VICT. CHAP. 117.

An Act to amend the Laws relating to the Removal of poor Persons born in Scotland, Ireland, the Islands of Man, Scilly, Jersey, or Guernsey, and chargeable in England.

[8th August, 1845.]

[*Preamble.*]*

[Sect. 1. *Repeal of* 11 *Geo.* 4 *&* 1 *Will.* 4, *c.* 5, *ss.* 1, 2; 3 *&* 4 *Will.* 4, *c.* 40; 7 *Will.* 4 *&* 1 *Vict. c.* 10; 3 *&* 4 *Vict. c.* 27; *and* 7 *&* 8 *Vict. c.* 42: Repealed by the S. L. R. Act, 1875.]

* Provision is made by the Poor Law (Scotland) Act, 1845 (8 & 9 Vict. c. 83), ss. 77—79, *ante*, for the removal of English and Irish paupers from Scotland to their native country. The Acts amending and extending

Sect. 2.

Provision for removal of natives of Scotland, Ireland, and the Isles of Man, Scilly, Jersey, and Guernsey, becoming chargeable to any parish in England.

II. If any person born in Scotland or Ireland, or in the Isle of Man, or Scilly, or Jersey, or Guernsey, not settled in England, become chargeable to any parish in England by reason of relief given to himself or herself, or to his wife, or to any legitimate or bastard child, such person, his wife, and any child so chargeable, shall be liable to be removed respectively to Scotland, Ireland, the Isle of Man, Scilly, Jersey, or Guernsey; and if the guardians of such parish, or of any union in which the same may be comprised, or where there are no such guardians, if the overseers of such parish, complain thereof to any one justice of the

these Acts, are the Poor Removal Act, 1847 (10 & 11 Vict. c. 33); the Poor Removal (No. 2) Act, 1861 (24 & 25 Vict. c. 76); the Poor Removal Act, 1862 (25 & 26 Vict. c. 113); the Poor Removal Act, 1863 (26 & 27 Vict. c. 89); the Poor Law (Scotland) Act, 1898 (61 & 62 Vict. c. 21); and the Poor Removal Act, 1900 (63 & 64 Vict. c. 23).

Sect. 2.

Note.

By the Poor Removal Act, 1847 (10 & 11 Vict. c. 33), s. 1, the guardians, &c., may, without summons or warrant, take a pauper liable to be removed under this Act before two justices; and by the Poor Removal (No. 2) Act, 1861 (24 & 25 Vict. c. 76), s. 1, and the Poor Removal Act, 1862 (25 & 26 Vict. c. 113), s. 1, the warrant for the removal of the pauper must be signed in petty sessions or by a stipendiary or metropolitan police magistrate sitting in court.

By the Poor Removal Act, 1900 (63 & 64 Vict. c. 23), no person who has resided continuously for five years in England is removable to Ireland; and where any person is removable to Ireland, an agreement may be made between the Irish union and the English union that he should be kept by the English union at the expense of the Irish union.

The application for the removal must be made by a relieving officer or other officer of the guardians or parish (24 & 25 Vict. c. 76, s. 2; 25 & 26 Vict. c. 113, s. 2); and the order is only to be made if the person to be removed is in such a state of health as not to be liable to suffer bodily or mental injury by the removal (24 & 25 Vict. c. 76, s. 1; 25 & 26 Vict. c. 113, s. 1).

Two legitimate children, born in Sheffield of Irish parents who had gained no settlement in this country, became chargeable to the parish of All Saints, Derby, where their parents had latterly resided; their mother had died, and their father deserted them, and was not afterwards heard of; and the question was, whether they should be removed to Sheffield as the place of their birth settlement. The court held that they should; 8 & 9 Vict. c. 117, only authorizes the removal to Ireland, Scotland, &c., of those who had been born there and their children, that is to say, their children living with them and unemancipated; but the person born in Ireland, &c., must be one of those removed, and if he be dead, or have absconded and cannot be found, the children cannot be removed to Ireland, &c., but are entitled to their birth settlement in England (*Reg.* v. *All Saints, Derby*, 14 Q. B. 207; 19 L. J. M. C. 14; 3 N. S. C. 653, 858; 13 Jur. 1100; 14 J. P. 23).

So, where a girl born in the parish of St. James, Westminster, of Irish parents who had no settlement in England, was removed to the place of her birth. It appeared that about the age of seventeen, she left her father's house without his consent, and went to live with a labouring man as his wife, in the parish of St. Giles, and

peace, such justice may, if such person do not attend voluntarily, summon him to come before any two justices of the peace, at any time and place to be named in the summons; and at such time and place, or on the attendance of such person, any two justices may hear and examine into the matter of such complaint, and if it be made to appear to their satisfaction that such person

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had several children by him; and upon his death, becoming chargeable, she was removed from St. Giles's to the parish of St. James, as the place of her settlement. The court held that she was properly removed; she could not be removed to Ireland without her father, and he could not be removed, for he was never in St. Giles's, the removing parish (*Reg.* v. *St. Giles-without-Cripplegate*, 17 Q. B. 636; 21 L. J. M. C. 26; 15 Jur. 1152; 16 J. P. 244).

Sect. 2. Note.

Where a man and wife born in Ireland come to England, and the husband deserts his wife, not having acquired any settlement in England, she and her children cannot be removed to Ireland under 8 & 9 Vict. c. 117, that statute only applying to cases where the head of the family is removable and the wife and husband are removed together as a family (*Poor Law Commissioners of Ireland* v. *Liverpool*, L. R. 5 Q. B. 79; 10 B. & S. 921; 39 L. J. M. C. 25; 21 L. T. (N. S.) 636; 18 W. R. 376; 16 J. P. 244).

So, if an Irishman, &c., who never acquires a settlement in England, marries a wife who has a settlement in England, and deserts her, and cannot be found, the wife and children are removable to the maiden settlement of the wife, and not to Ireland, &c. (*Much Hoole Overseers* v. *Preston Overseers*, 17 Q. B. 518; 21 L. J. M. C. 1; 15 Jur. 1152; *Reg.* v. *St. Marylebone*, 20 L. J. M. C. 61).

The following cases were decided upon 59 Geo. 3, c. 12, s. 33, and 3 & 4 Will. 4, c. 40, which were *in pari materia* with this section, but are now repealed: A child born in England, whose parents were born in Ireland and had no settlement in England, and whose mother after the father's death married again and so gained a settlement by marriage, was held, upon becoming chargeable, not to be removable to Ireland, but to be removable to the place of his birth (*Rex* v. *Great Clacton*, 3 B. & Ald. 410). The wife and unemancipated children of a Scotchman who had not acquired any settlement in England became chargeable. *Held* that they could not be removed without the husband to the wife's maiden settlement, but must all be removed with the husband to Scotland (*Rex* v. *Leeds*, 4 B. & Ald. 498). In order to render persons removable to Ireland or Scotland they, or unemancipated members of their family, must be actually chargeable: constructive chargeability, such as the pregnancy of an unmarried daughter, is not sufficient (*Rex* v. *Whitehaven*, 5 B. & Ald. 720). When a girl born in England of Irish parents, who had gained no settlement in England, had a bastard child while living with her parents and became with her child actually chargeable, it was held that she was removable with her father to Ireland, and not to the place of her birth in England (*Rex* v. *Mile End Old Town*, 4 A. & E. 196). But a person born in England of Irish parents who had gained no settlement in England, was, if emancipated, removable with his wife and children to his place of birth, and not to Ireland (*Reg.* v. *Preston*, 12 A. & E. 822). Bastards were not removable to Scotland or Ireland (*Rex* v. *Mile End Old Town*, 4 A. & E. 196; *Rex* v. *Bennett*, 2 B. & Ad. 712), but are made removable by this Act. The English wife of an Irishman who had

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is liable to be so removed as aforesaid, and if they see fit, they may make and issue a warrant under their hands and seals to remove such person forthwith at the expense of such union or parish.

Persons executing warrants of removal to have the authority of constables in every place through which they pass.

III. Every person to whom any warrant made in pursuance of this Act shall be delivered for the purpose of being carried into execution shall detain and hold in safe custody every poor person mentioned therein, until such poor person have arrived at the place to which he is ordered to be removed, and shall for that purpose, in every county and place through which he may pass in the due execution of such warrant, have and exercise the powers with which a constable is by law invested, notwithstanding such person may not otherwise be empowered to act as a constable for such county or place.

[Sect. 4. Repealed by 26 & 27 Vict. c. 89, s. 3.]

Expenses of removal incurred by guardians or overseers of certain parishes to be repaid out of county rate or borough fund.

V. In the case of any parish not in union, and not containing a population exceeding thirty thousand persons according to the last census published by the authority of Parliament, if the guardians or overseers on whose complaint such warrant of removal was made bring or send to the clerk of the peace of the county or to the town clerk of the borough in which such parish is situate such warrant of removal, accompanied with an affidavit, sworn before some justice of the peace of such county or borough, (who shall be authorized to administer the same), of the amount of the expenses *bonâ fide* incurred and paid by such guardians or overseers on account of such removal under such warrant as aforesaid, and also a statement of the several items comprised in such amount, such clerk of the peace shall lay the same before the justices of the peace assembled at the quarter session or adjournment thereof holden for such county next after he has received the same, and such town clerk shall lay the same before the council of such borough at their quarterly meeting held next after he has received the same ; and the said justices and council

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gained no settlement in this country cannot, while he is with her, be removed to the place of her last legal settlement. Nor in his absence can she be removed to Ireland. In the event of her being deserted, however, she can be removed to her old settlement (*Rex* v. *Cottingham*, 6 L. J. (o. s.) M. C. 37).

Sect. 3. Note.

This section is applied to Ireland by the Poor Removal Act, 1863 (26 & 27 Vict. c. 89), s. 3.

Sect. 5. Note.

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (1), the power of making orders for the payment of sums out of the county rate is transferred from the quarter sessions to the county council.

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of such borough respectively shall, if the regulations in force in regard to such removal have been duly complied with, order the amount of such expenses to be paid out of the county rate raised in such county, or out of the borough fund of such borough, as the case may be.

[Sect. 6. Repealed by 24 & 25 Vict. c. 76, s. 7.]

4 & 5 Will. 4, c. 76, and amending Acts, and this Act, to be construed as one Act.

VII. The Poor Law Amendment Act, 1834, and all Acts to amend and extend the same, and the present Act, except so far as the provisions of any former Act are altered, amended, or repealed by any subsequent Act shall be construed as one Act; and in this Act, or any of the said Acts, the word "county" shall mean and include any county, division of a county, riding, or liberty, having a separate commission of the peace; and in this Act the word "borough" shall mean any borough having a separate court of quarter sessions.

Interpretation of certain terms.

Forms in schedule (C.) may be used in proceedings under this Act.

VIII. In all proceedings under this Act it shall be sufficient in the law to use, with such changes only as the facts of each case may require, the forms contained in the schedule marked (C.) to this Act annexed for the purposes in the titles to such forms respectively specified.

SCHEDULES.

[Schedules (A.), (B.). Repealed by the S. L. R. Act, 1875.]

SCHEDULE (C.).

[This schedule is repealed as to Ireland by the S. L. R. Act, 1875: it is replaced by the schedule to the Poor Removal Act, 1863 (26 & 27 Vict. c. 89). (See sect. 6 of that Act.)]

Form of Warrant of Removal of Persons born in Scotland or Ireland, or in the Isle of Man, or Scilly, or Jersey, or Guernsey.

To

County of } Whereas complaint hath been made by the board
to wit. } of guardians of the union [*or* of the parish of, &c.], in the said county of , unto us, whose names are hereunto set and seals affixed, two of Her Majesty's justices of the peace acting in and for the said county, that , a person born in Scotland [*or* Ireland, *or* the Isle of Man, *or* Scilly, *or* Jersey, *or* Guernsey], hath become and is now chargeable to the parish [township, &c.] of , in the said union, &c.: And whereas, upon examination of the said taken upon oath before us [which examination is hereto annexed], it doth appear to our

Schedule.

satisfaction that he was born in Scotland, &c., and hath not a settlement in England, and that he hath a wife named , and children, *videlicet* , neither of which children has any settlement in England:

These are therefore to require you the said to convey the said , his wife and family aforesaid, to Scotland, &c., in the manner directed by the regulations of the justices of the said county, &c., and approved by J. S., one of Her Majesty's principal Secretaries of State, in pursuance of the provisions of a certain Act made and passed in the year of the reign of Queen Victoria, intituled [the title of this Act].

Given under our hands and seals this day of in the year of our Lord one thousand eight hundred and .

[Here copy the regulations of the justices of the county, &c., approved by the Secretary of State, as applicable to the removal of the party.]

Form of Examination to which the above Warrant refers.

} The examination , taken on oath before
to wit. } us, two of Her Majesty's justices of the peace acting in and for the [county, riding, city, borough, town corporate, division, *or* liberty,] aforesaid this day of in the year of our Lord one thousand eight hundred and , who on oath saith, that according to the best of [his *or* her] knowledge and belief [he *or* she] was born in , in that part of the United Kingdom called Scotland [*or* Ireland, *or* in the Isle of Man, *or* Scilly, *or* Jersey, *or* Guernsey], which [he *or* she] left about years ago, and hath no settlement in that part of the United Kingdom called England, and hath actually become and is now chargeable to the [parish, township, &c.] of , in the county of [and that he hath a wife named , and children, neither of which children have gained a settlement in England].

Sworn the day and year first above written, before us

THE INCLOSURE ACT, 1845.

8 & 9 VICT. CHAP. 118.

An Act to facilitate the Inclosure and Improvement of Commons and Lands held in common, the Exchange of Lands, and the Division of intermixed Lands; to provide Remedies for defective or incomplete Executions, and for the Non-execution of the Powers of General and Local Inclosure Acts; and to provide for the Revival of such Powers in certain cases.* [8th August, 1845.]

[The Inclosure Acts are of considerable length, and relate but indirectly to the poor law, by providing that allotments shall in certain cases of inclosure be made and managed for the benefit of the labouring poor. Only such part of this Act is therefore printed here as relates to that branch of the subject of inclosures, or is required to make such part intelligible.]

* * * * *

Allotments for exercise and recreation may be required as conditions of inclosure.

XXX. In the provisional order of the commissioners concerning the inclosure under the provisions of this Act of any waste land of any manor on which the tenants of such manor have rights of common, or of any other land subject to rights of common which may be exercised at all times of the year for cattle levant and couchant or to any rights of common which may be exercised at all times of the year, and which shall not be limited by number or stints, it shall be lawful for the commissioners to require, and in their provisional order to specify, as one of the terms and conditions of such inclosure, the appropriation of an allotment for the purposes of exercise and recreation for the inhabitants of the neighbourhood; . . . and if in the provisional order for such inclosure the commissioners shall not have required the appropriation of an allotment for the purposes of exercise and recreation, the commissioners shall in their annual general report state the grounds on which they shall have abstained from requiring such appropriation.

If such allotments are not required, commissioners to state the reason in their report.

* The Inclosure Commissioners for England and Wales, the Copyhold Commissioners, and the Tithe Commissioners became by 45 & 46 Vict. c. 38, s. 48, the Land Commissioners for England; and the powers, &c., of the Land Commissioners were in turn transferred to the Board of Agriculture by 52 & 53 Vict. c. 30. For the word "commissioners," therefore, wherever it occurs in this Act, now read "Board of Agriculture."

Sect. 30 Note.

So much of this section as prescribes a limit to the quantity of land to be allotted to recreation grounds is repealed by the Commons Act, 1876 (39 & 40 Vict. c. 56), s. 34, and by sect. 23 of the same Act it is provided that where common land is about to be inclosed, part of which is and part is not waste of the manor, the allotments for recreation and field gardens may be made out of the land that is not waste of the manor, and corresponding quantities of land awarded to the persons interested out of the waste in exchange.

Sec. 31.

Allotments for labouring poor may be required as conditions of inclosure.

XXXI. In the provisional order of the commissioners concerning the inclosure under the provisions of this Act of any waste land of any manor on which the tenants of such manor have rights of common, or of any land whatsoever subject to rights of common which may be exercised at all times of the year for cattle levant and couchant as aforesaid, or to any rights of common which may be exercised at all times of the year, and which shall not be limited by number or stints, it shall be lawful for the commissioners to require and specify as one of the terms and conditions of such inclosure the appropriation of such an allotment for the labouring poor as the commissioners shall think necessary, with reference to the circumstances of each particular case, and if in the provisional order for such inclosure the commissioners shall not have required the appropriation of an allotment for the labouring poor, the commissioners shall in their annual general report state the grounds on which they shall have abstained from requiring such appropriation.

If such allotments are not required the commissioners to state reason in their report.

* * * * *

Allotments for places of exercise and recreation

LXXIII. The valuer acting in the matter of any inclosure shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of the provisional order of the commissioners, or any Act hereafter to be passed, or the instructions given to such valuer as aforesaid, set out and allot such part of the lands to be inclosed as by such provisional order or Act or instructions respectively shall have been directed to be appropriated as a place of exercise and recreation for the inhabitants of the said parish and neighbour-

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Sect. 31. Note.

By the Commons Act, 1876 (39 & 40 Vict. c. 56), s. 24, "there shall be repealed so much of the Inclosure Acts, 1845 to 1868, as relate to the charging of an allotment made for the purpose of a field garden with a rent-charge, and every such allotment made after the passing of this Act shall be made free of any such rent-charge."

Sect. 73. Note.

In rural parishes the legal interest in property vested in overseers or churchwardens and overseers is transferred to the parish council, or in small parishes to the chairman of the parish meeting and the overseers (Local Government Act, 1894, ss. 5 (2) (*c*), 19 (7)); and the powers and duties, &c., of overseers or churchwardens and overseers with respect to the management of allotments, &c., is also transferred to the parish council (*ib.*, s. 6 (1) (*c*) (iii.)), or in small parishes is vested in the overseers alone (*ib.*, s. 5 (2) (*b*)).

By the Inclosure Act, 1852 (15 & 16 Vict. c. 79), s. 14, the Board of Agriculture may by order direct that the allotments for exercise and recreation, and town and village greens shall not be fenced, but marked by metes and bounds.

By the Commons Act, 1876 (39 & 40 Vict. c. 56), s. 27, any surplus rents from recreation grounds shall be applied in improving recreation grounds in the same parish or neighbourhood, or in hiring or purchasing additional land for recreation grounds.

hood; and such allotment shall, . . . be made and awarded to the churchwardens and overseers for the time being of the parish in which the same shall be situated, and shall be held by the churchwardens and overseers for the time being of the said parish for the purposes aforesaid, and shall be in the first instance fenced, and where occasion shall require, drained and levelled by the valuer, the expense in such case to be considered part of the expenses of the inclosure, or shall be fenced by any person to whom adjoining land shall be allotted, as the valuer may direct; and the fences of such allotment shall for ever afterwards be repaired and maintained, and the surface thereof kept drained and level, by such churchwardens and overseers, or by the churchwardens and overseers of the several parishes interested therein, in such proportions and manner as shall be directed by the valuer, out of the rents to be received for the herbage of the said allotment, or out of the poor rate of the said parish or respective parishes, or otherwise; and the grass and herbage growing upon such allotment may be from time to time let by the churchwardens and overseers in whom the same shall be vested, and the rents which shall be received by them for the same shall be by them from time to time applied in the first place in maintaining and repairing the fences of the said allotment, and keeping the surface thereof drained and level as aforesaid . . . and the valuer shall in like manner set out and allot such part of the land to be inclosed as by such provisional order or Act or instructions as aforesaid shall have been directed to be appropriated as an allotment for the labouring poor unto the churchwardens and overseers of the poor of the parish in which such allotment shall be situate . . . ; and the said valuer shall in like manner, in pursuance of the directions of or in any manner not inconsistent with the directions of such provisional order or Act or instructions as aforesaid, set out and allot, for the other public purposes mentioned in such provisional order or Act or instructions as aforesaid, such parts of the land to be inclosed as shall have been thereby respectively directed to be set apart for such purposes, and such allotments shall be made to such persons respectively, with such regulations and provisions as to the fencing, maintenance, use and enjoyment thereof respectively, as the valuer, with the approbation of the commissioners, shall direct; and in every case in which the valuer, with such approbation of the commissioners, shall not think it necessary or proper to direct the same to be otherwise made, such allotments shall be made to the churchwardens and overseers of the poor for the time being of the parish in which such allotments shall be situate; and all allotments which shall be made to the churchwardens and overseers under this Act shall be held by the churchwardens and overseers of the poor for the time being in the same manner and with the same legal powers and incidents as if the same allotments were lands belonging to the parish, but in trust nevertheless for the purposes for which

for labouring poor;

and for other public purposes.

Sect. 73

the same shall be allotted, and subject, as to the said allotment for the labouring poor, to the provisions in relation thereto herein-after contained, and, as to all other such allotments, subject to such directions for the maintenance, fencing, management, and use thereof as the valuer, with the approbation of the commissioners, may think fit.

Persons to whom allotments made bound to maintain and permit the same to be used, and subject thereto shall be entitled to the herbage.

LXXIV. [*Power to allot land appropriated for exercise and recreation to any person entitled to an allotment, in full or in part of his allotment: Repealed by the S. L. R. Act*, 1891] the person to whom the land so to be appropriated shall be allotted, and all future owners thereof, shall, unless it shall be otherwise directed by the award, be subject to the obligation of maintaining the fences of such land, and of preserving the surface thereof in good condition, and of permitting such land to be at all times used for exercise and recreation by the inhabitants of the parish and neighbourhood, and, subject to such obligations, the herbage of such land shall belong to the person to whom such land shall be so allotted.

Payment of rent-charge for allotments.

LXXV. [*Provision that allotments for the labouring poor may be made subject to a corn rent-charge, to vary and be recoverable as a tithe rent-charge, as ascertained under* 6 *&* 7 *Will.* 4, *c.* 71 : *Repealed by the S. L. R. Act*, 1891.] Every such rent-charge shall be paid by equal half-yearly payments on the first day of July and the first day of January, the first of such half-yearly payments to be made on the first of such half-yearly days after the expiration of three years from the date of the confirmation of such award ; and such sum of money shall be payable in respect of such yearly rent-charge as according to the prices ascertained by the then next preceding advertisement for the purposes of the Tithe Act, 1836, would have been payable in respect of a rent-charge of like amount charged on lands under the provisions of such Act ; and the sum of money thenceforth payable in respect of such rent-charge charged under the provisions of this Act shall vary so as always to consist of the price of such number of bushels, and decimal parts of a bushel, of wheat, barley, and oats respectively, according to the next preceding advertisement for the time being, in like manner as if the same had been a rent payable under the provisions of the Tithe Act, 1836, and the persons entitled to any rent-charge charged under the provisions of this Act shall have the same powers and remedies for enforcing payment thereof, in all respects, as are by the Tithe Act, 1836, or by any Act for amending the same, given to the persons

6 & 7 Will. 4, c. 71.

Sect. 75.

See note to sect. 73, *supra*, as to the abolition of a rent-charge.

Note.

In a rural parish having a parish council the duties of allotment wardens are transferred to the council. (Local Government Act, 1894, s. 6 (4).)

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entitled to rent-charges charged under the Tithe Act, 1836, for recovering and enforcing payment of such last-mentioned rent-charges; and nothing herein or in such award contained shall render any person personally liable to the payment of any rent-charges to be charged under the provisions of this Act: Provided always, that when such allotment, or any part thereof, shall be let and occupied as gardens under the provisions herein-after contained, the person for the time being entitled to the rent-charge charged thereon shall not distrain for such rent-charge on the occupiers of such gardens, but the person so entitled may, in case such rent-charge shall be in arrear, give notice to the occupiers of such gardens, and to the allotment wardens, or any of them, and shall thenceforth, until the arrears of such rent-charge, with all expenses occasioned by the non-payment thereof, shall be fully paid, be entitled to receive all the rent which after such notice shall accrue in respect of such gardens, and shall have the same remedies for recovering such rent, and the same powers of determining the tenancy of such occupiers, and of letting and dealing with such allotment, as such allotment wardens would have had in case such rent-charge had not been in arrear; and in case the said allotment wardens, or any of them, after such notice shall have been given to them as aforesaid, and before the arrears of such rent-charge, with all such expenses as aforesaid, shall have been fully paid, shall receive any rent from the occupiers of such gardens, such of the allotment wardens as shall have received such rent shall, on demand, pay to the person then entitled thereto the arrears of the said rent-charge then remaining unpaid, and the expenses occasioned by the non-payment thereof; and in default of such payment, on demand, such arrears of rent-charge and expenses may be recovered from the allotment wardens liable to pay the same, as penalties are recoverable under this Act.

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Allotments for the labouring poor shall be managed by the allotment wardens.

CVIII. The allotment which upon any inclosure under this Act shall be made for the labouring poor shall be under the management of the incumbent of the parish or ecclesiastical district in which such allotment shall be situate (or the officiating minister for the time being nominated by the incumbent for that purpose), the churchwarden, if there be but one, or (if there be more than one) one of the churchwardens for the time being of such parish, and two other persons who shall be rated to the relief of the poor in such parish; and such churchwarden, where there is more than one churchwarden, shall be yearly named, and such two other persons shall be yearly chosen and appointed, at the same time, and by the same persons, and in the same manner as the overseers of the poor for such parish shall be

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Note.

See note to sect. 75, *supra*, as to "allotment wardens."

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chosen and appointed, and shall continue in office in like manner until the next appointment of overseers, or until others are named and chosen and appointed in their stead; and such incumbent (or officiating minister), churchwarden, and two other persons for the time being shall be styled "The Allotment Wardens" of the parish, and shall manage and let the said allotment as herein-after provided, and all things by this Act authorized to be done by such allotment wardens may be done by any two of them, and in the event of the death or retirement from office of any one or more of the said allotment wardens the surviving or continuing wardens may act as if no such vacancy had happened.

Such allotments how to be let.

CIX. The allotment wardens shall from time to time let the allotment under their management in gardens not exceeding a quarter of an acre each, to such poor inhabitants of the parish, for one year, or from year to year, at such rents, payable at such times, and on such terms and conditions, not inconsistent with the provisions of this Act, as they shall think fit: Provided always, that the commissioners may frame such regulations, not inconsistent with the provisions of the Act, for the letting of

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See note to sect. 75, *supra*, as to "allotment wardens."

Note.

This section is largely altered by sect. 26 of the Commons Act, 1876 (39 & 40 Vict. c. 56), which provides as follows: "Allotment wardens, if they are unable to let the allotments under their management or any portion thereof, to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, may let the same, or any unlet portion thereof, in gardens not exceeding an acre each to such inhabitants as aforesaid: Further, it shall be the duty of allotment wardens to offer the gardens under their management to the poor inhabitants of the parish at a fair agricultural rent, if from time to time sufficient to satisfy all rates, taxes, tithes, tithe rent-charge, and the rent-charge charged on the said allotments under the provisions of 'The General Inclosure Act, 1845,' but not otherwise, instead of at such rent as is required by the said Act. Moreover, if in any parish the allotment wardens are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in such quantities and at such rents as aforesaid, they may let the same, or such portion as may be unlet to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the allotment wardens to resume possession thereof within a period not exceeding twelve months, if it should at any time be required for such poor inhabitants as aforesaid. This section shall apply to all land allotted to the poor for the purpose of cultivation under any Inclosure Act whatever, whether public or private, whether under the management of allotment wardens, feoffees, trustees, rector or vicar and churchwardens, overseers, managers, or any other person or persons whatever, and whether at present cultivated or uncultivated, so that all such persons as aforesaid shall have like powers and duties as are herein-before given to and imposed upon allotment wardens."

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such allotments as aforesaid, as they may think advisable, and such regulations shall be obligatory on the allotment wardens during five years from the date thereof, or during such shorter period as the commissioners shall direct: Provided also, that the gardens so to be let shall be let free of all tithe or tithe rent-charge (if any), rates, taxes, and assessments whatsoever, and shall before the first letting thereof, and once at least in every ten years after such first letting, be valued by a competent person to be appointed by the allotment wardens for that purpose, who shall estimate the full rent which the same would be worth to be let by the year for farming purposes, all tithes or tithe rent-charge, rates, taxes, and assessments, being borne by the landlord, and shall verify such valuation by solemn declaration under the statute; . . . and the allotment wardens shall, for the purposes of all rates and taxes, be deemed the occupiers of such allotment, and shall pay all rates and taxes, tithes, and tithe rent-charge (if any), in respect thereof: Provided always, that no building whatsoever shall, under any such letting as aforesaid or otherwise, on any pretence, be erected for or used as a dwelling on any such garden or on any part of any such allotment; and in case any such building shall be erected or used as aforesaid contrary to this provision, the allotment wardens shall forthwith pull down the same, and sell and dispose of the materials thereof, and the produce of such sale shall be applicable in like manner as the rents of such gardens.

Valuation of allotments.

Wardens to pay rates, &c.

Buildings not to be erected or used for dwellings on allotments.

CX. If the rent reserved upon the letting of any garden by the allotment wardens shall at any time be in arrear for forty days, or if at any time during the tenancy, being not less than three calendar months after the commencement thereof, it shall appear to the allotment wardens that the occupier of such garden shall not have duly observed the terms and conditions of his tenancy, or shall have gone to reside more than one mile out of the parish, then and in every such case the allotment wardens shall serve a notice upon such occupier, or in case he shall have gone to reside out of the parish shall affix the same to the door of the church of the parish, determining the tenancy at the expiration of one month after such notice shall have been so served or affixed, and thereupon such tenancy shall be determined accordingly: Provided always, that in every such case the allotment wardens or their incoming tenant shall pay to the occupier whose tenancy shall have been so determined a fair recompense in money for any crops (not being crops prohibited by the terms of such tenancy) which may be growing on such garden at the time of such determination, and for any manure left on such garden, or any benefit accruing from the manuring of such garden to the wardens or their incoming tenant; and the

Determination of tenancy on non-payment of rent, &c.

Compensation to tenant for crops, &c.

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As to "allotment wardens," see note to sect. 75, *supra*.

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justices to whom application may be made for a warrant to give possession of such garden shall settle the amount of such recompense, in case the parties differ about the same, and stay the execution of such warrant until the same shall have been paid or tendered, or (in case such occupier be absent) until the payment thereof shall have been secured to the satisfaction of such justices.

Recovery of possession from tenants holding over, or from persons unlawfully entering.

1 & 2 Vict. c. 74.

CXI. In case upon the determination of any such tenancy as aforesaid the occupier of any such garden shall refuse to quit and deliver up possession thereof, or if any other person shall unlawfully enter upon, take, or hold possession of any such garden, or of any part of such allotment, the allotment wardens may recover possession according to the mode prescribed by the Small Tenements Recovery Act, 1838, in such and the same manner as if the said wardens were landlords or a landlord, and as if such over-holding occupier or other person were a tenant neglecting to quit or deliver up possession within the meaning of the last-mentioned Act.

Rents of allotment how to be recovered and applied.

CXII. All rents payable in respect of the allotment under the management of the allotment wardens shall be payable to such wardens, who shall have the same remedies for recovery thereof by distress and otherwise as if the legal estate of and in such allotment were vested in them under this Act; and such rents shall be applicable, in the first place, to the payment of all rates, taxes, tithes, tithe rent-charge, and of the rent charge charged on such allotment under the provisions of this Act, and of all expenses incurred by the allotment wardens in the execution of their trusts and powers under this Act; . . .

* * * * *

Inconvenient allotments for the poor, and for public purposes, may

CXLIX. Where, under the powers of any Inclosure Act, any allotments shall have been made in trust for the poor inhabitants of any parish, or of any class of such poor inhabitants, or in trust to be leased, used, or enjoyed to or by or upon any

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Note.

As to "allotment wardens," see note to sect. 75, *supra*.

By the Commons Act, 1876 (39 & 40 Vict. c. 56), s. 27, the surplus rents from field gardens are to be applied in improving field gardens in the same parish or neighbourhood, or in hiring or purchasing additional lands for field gardens in the same parish or neighbourhood.

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Note.

As to "churchwardens and overseers" see note to sect. 73, *supra*.

This section applies to allotments for the poor made under any Inclosure Act. Trustees under Inclosure Acts of allotments for the poor in rural parishes may now, with the approval of the Charity Commissioners, transfer the property to the parish council or to appointees of the council. (Local Government Act, 1894, s. 14 (1).)

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be exchanged for land more convenient.

other trusts for the benefit of such poor inhabitants, or for the purposes of exercise and recreation, or for any other public or parochial purpose, and it shall appear to the commissioners that such allotment, by reason of its distance from the dwellings of such poor inhabitants, or from the nature or quality of the soil, or otherwise, shall not be convenient or suitable for the purposes for which the same shall have been made, it shall be lawful for the commissioners, upon the application in writing of the churchwardens and overseers of the poor of the parish in which such allotment shall be situate, or of the trustees for the time being of such allotment, and of the person interested in land more convenient or suitable for the purposes for which such allotment shall have been made, and who may be willing to give such land in exchange for such allotment, in case the commissioners shall be of opinion that such exchange would be beneficial to the poor inhabitants or other persons for whose benefit or more suitable to the purposes for which such allotment was made, to cause to be framed and to confirm an order of exchange of such allotment for such other land as aforesaid; and the provisions herein contained concerning exchanges shall apply to such allotment, as if such churchwardens and overseers or trustees respectively were the persons interested in such allotment.

Notices of intended exchanges and divisions to be given.

CL. Provided always, that no such order of exchange or order of division and allotment as aforesaid shall be confirmed by the commissioners until notice shall have been given by advertisement in *three* successive weeks of such proposed exchange or division and allotment, and *three calendar months* shall have elapsed from the publication of the last of such advertisements; and in case before the expiration of such three calendar months any person entitled to any estate in or to any charge upon any land included in such proposed exchange or division and allotment shall give notice in writing to the commissioners of his dissent from such proposed exchange or division and allotment, as the case may be, the commissioners shall not confirm an order for such exchange or such division or allotment unless such dissent shall be withdrawn, or it shall be shown to the commissioners that the estate or charge of the party so dissenting shall have ceased.

If parties interested dissent, order for exchange, &c. shall not be confirmed until dissent is withdrawn, &c.

In case of dispute, commissioners shall certify the share of expense of

CLI. If any difference shall arise touching the said expenses in relation to any exchange, division, allotment, orders, or inquiries as aforesaid, or the share thereof to be paid by any person, it shall be lawful for the commissioners to certify under their hands and seal the amount to be paid by such person;

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Note.

By the Commons Act, 1899 (62 & 63 Vict. c. 30), s. 19, this section shall have effect as if "two successive weeks" were herein inserted instead of "three successive weeks," and as if "one month" were herein inserted instead of "three calendar months."

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exchange, &c. payable by person, which, if not paid, may be recovered by distress.

and in case any person shall neglect or refuse to pay his share so certified to be payable by him, and upon the production of such certificate before any two justices of the peace for the county or other jurisdiction wherein the land shall be situate, such justices, upon the non-payment thereof, are hereby required, by warrant under their hands and seals, to cause the same to be levied by distress.

* * * * *

POOR REMOVAL ACT, 1846.

9 & 10 VICT. CHAP. 66.

An Act to amend the Laws relating to the removal of the Poor. [26th August, 1846.]

[Preamble recited that it was expedient that the laws relating to the removal of the poor should be amended.]

No person to be removed from any parish in which he or she shall have resided for three years.

Time of service in army or navy or confinement in asylum, &c. not to be computed.

[I.] No person shall be removed, nor shall any warrant be granted for the removal of any person, from any parish in which such person shall have resided for *five* years next before the application for the warrant: Provided always, that the time during which such person shall be a prisoner in a prison, or shall be serving Her Majesty as a soldier, marine, or sailor, or reside as an in-pensioner in Greenwich or Chelsea Hospitals, or shall be confined in a lunatic asylum, or house duly licensed or hospital registered for the reception of lunatics, or as a patient in a hospital, or during which any such person shall receive relief from any parish, or shall be wholly or in part maintained by any rate or subscription raised in a parish in which such person does not reside, not being a *bonâ fide* charitable gift, shall for all purposes be excluded in the computation of time herein-before mentioned, and that the removal of a pauper lunatic to a lunatic asylum, under the provisions of any Act relating to the maintenance and care of pauper lunatics, shall not be deemed a removal within the meaning of this Act: . . .

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Note.

AMENDMENTS AND EXTENSIONS.

By the Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 1, the period of residence necessary to acquire a status of irremovability was reduced to *three* years, and finally by the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 8, to *one* year.

By the Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 1, "the residence of a person in any part of a union shall have the same effect in reference to the provisions of the said section [9 & 10 Vict. c. 66, s. 1], as a residence in any parish."

By the Poor Removal Act, 1864 (27 & 28 Vict. c. 105), s. 1, "in the case of any poor person heretofore chargeable or hereafter becoming chargeable in any parish comprised in a union not being

AMENDMENTS AND EXTENSIONS—*continued.*

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Note.

the parish of the settlement, the period of time during which he shall have resided in the parish of the settlement, if in the same union, shall not be excluded in the computation of the time of residence required to render him exempt from removal under the statutes above referred to."

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 34, "where any poor person shall have acquired an exemption from removal in any parish or union, and the parish or union wherein that exemption shall have been wholly or partly acquired, shall have been or shall be added to or separated from a union, such poor person shall continue to have the same exemption from removal as he would have been entitled to if no such addition or separation had taken place."

After the words "charitable gift" should now be inserted the following words "or shall be detained in a school under the Industrial Schools Act, 1866, or shall be detained as an habitual drunkard under the Habitual Drunkards Act, 1879, or shall be detained in or be absent under licence from a State inebriate reformatory, or a certified inebriate reformatory," in pursuance of the following respective enactments, viz.: The Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), s. 31; the Habitual Drunkards Act, 1879 (42 & 43 Vict. c. 19), s. 32; and the Inebriates Act, 1898 (61 & 62 Vict. c. 60), s. 22.

By the Poor Removal Act, 1848 (11 & 12 Vict. c. 111), s. 1, a second proviso to this section was repealed and the following proviso substituted therefor: "Provided that whenever any person should have a wife or children having no other settlement than his or her own, such wife and children should be removable from any parish or place from which he or she would be removable, notwithstanding any provisions of 9 & 10 Vict. c. 66, and should not be removable from any parish or place from which he or she would not be removable by reason of any provision in the said Act."

This substitution was made partly in consequence of the decision in *Reg.* v. *St. Ebbe, Oxford*, 18 L. J. M. C. 14; 13 J. P. 216 (for which see note to 11 & 12 Vict. c. 111, s. 1), and partly in order to clear up a doubt whether the repealed proviso extended to irremovability other than that which is acquired under this Act, *e.g.*, the irremovability acquired by a soldier while in actual service under the Crown.

Extent of Act.

The Act extends only to render irremovable such paupers as have a known settlement to which they would otherwise be liable to be removed (*Reg.* v. *Bennett*, 3 E. & B. 341; 23 L. J. M. C. 39; 2 C. L. R. 977; 18 Jur. 311; 22 L. T. 258; 18 J. P. 217).

There is nothing in the language of 9 & 10 Vict. c. 66, s. 1, and 11 & 12 Vict. c. 111, to limit their application to those cases in which, if they were not applied, a separation of members of a family would be effected (*West Ham Union* v. *St. Matthew, Bethnal Green*, [1894] A. C. 230; 63 L. J. M. C. 97; 70 L. T. 813; 42 W. R. 573; 58 J. P. 493).

RESIDENCE.

Residence.

"Under the Poor Law Acts 'residence' means where the pauper sleeps," *per* Coleridge, J. "The question is whether the pauper came [to a district] with the intention of becoming a resiant, or merely with the intention of proceeding on. If they did not look after him, he became a resiant, and hence 'residence' came to

RESIDENCE—*continued.*

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mean the place where he slept. This is the narrow construction for the purposes of the poor law," *per* Erle, J. (*Blackwell* v. *England*, 8 E. & B. 56; 27 L. J. Q. B. 124; 3 Jur. (N. S.) 1302; and see *Rex* v. *North Currey*, 4 B. & C. 953, as to the "residence" necessary for liability to be rated to the poor rate).

Residence in a parish or union, to constitute irremovability, need not be in a house, or in any place ordinarily applied to house habitation. Sleeping in the open air will constitute such residence if for the requisite period; and such residence is not broken by reason of the involuntary or temporary absence of the pauper from the parish by night, when the pauper has the intention of returning, and does return in the day time. Where, therefore, a destitute woman, who had resided for sixteen years in a parish, at the latter end of her residence gave up her lodgings and wandered about the parish by day, sleeping on the steps of doors of houses, and then for three weeks sleeping in a refuge for houseless poor in an adjoining parish, but returning each day to the other parish until she obtained admission into the workhouse of that parish, it was held that she had acquired the status of irremovability in such parish (*Reg.* v. *St. Leonard's, Shoreditch*, L. R. 1 Q. B. 21; 6 B. & S. 784; 35 L. J. M. C. 48; 12 Jur. (N. S.) 292; 13 L. T. (N. S.) 278; 29 J. P. 728).

For some purposes a person may have more than one residence (*Walcot* v. *Botfield*, 1 Kay, 534; 18 Jur. 570); but where a medical officer of a lunatic asylum had apartments in the asylum with board and lodging and lived there, but had also apartments in another parish, in which his wife and children continuously resided, and he visited them from the Saturday to Monday, it was held that he must be taken to have resided in the parish in which the asylum was situated, and that the wife and her children were therefore removable from the parish in which the lodgings were, and to which they had become chargeable (*Reg.* v. *Norwood*, or *Norwood* v. *St. Pancras*, L. R. 2 Q. B. 457; 36 L. J. M. C. 91; 16 L. T. (N. S.) 484).

Residence in a "parish."

By sect. 8, *infra*, this Act and the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), are to be construed as one Act, and by the interpretation clause of the latter Act (sect. 109), the word "parish" shall be construed to include "any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place, or division or district of a place, maintaining its own poor, whether parochial or extra-parochial."

The city of Norwich and county of the same consisted of thirty-six parishes and six hamlets (including amongst others the parish of St. Stephen, and the hamlet of Heigham), all maintaining their poor jointly out of a common rate, under a local Act and board of guardians, but with respect to removals of paupers to or from places out of the city and county each of these parishes and hamlets was considered distinct. A pauper for twenty years had resided in the hamlet of Heigham, and then removed to the parish of St. Stephen, where he resided for two years, when an order was made for his removal to the parish of Forncett St. Mary, in the county of Norfolk; and upon appeal against it and a case reserved, it was argued that as 9 & 10 Vict. c. 66, s. 8, enacts that that Act and the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), shall be construed as one Act, and by the interpretation clause of the latter Act the word "parish" shall be construed to include any parish, city, borough, town, &c., maintaining its own poor, the

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9 & 10 Vict. c. 66, s. 1, must be read as prohibiting the removal of a pauper from any city maintaining its own poor, who shall have resided [five] years there; and on the other hand it was argued that this interpretation clause was inapplicable here, inasmuch as each parish, &c., was deemed separate with respect to other parishes out of the city, and the parish of Forncett St. Mary amongst others; the Court of Queen's Bench held the pauper to be irremovable. Where the poor of every parish are thus maintainable out of one common fund, without regard to the number maintained in each, a pauper going from one parish to reside in another within the city could not affect his residence within the meaning of 9 & 10 Vict. c. 66, s. 1, which must be read as if the word "city" were substituted for parish (*Reg.* v. *Forncett St. Mary*, 12 Q. B. 160; 18 L. J. M. C. 125; 13 Jur. 729; 3 N. S. C. 477; S. P. *Bristol Incorporation* v. *Barton Regis Union*, 66 L. T. 190; 56 J. P. 311; *Reg.* v. *Holy Trinity, Exeter*, 4 N. S. C. 438).

Residence in a "union."

Since the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1, a pauper who has resided a sufficient time in a union becomes irremovable, not only from that union to another union but from one parish to another parish within the same union, although his term of residence is made up of periods during which he has resided in two or more parishes of the union, none of which are his parish of settlement. Thus, where three parishes were in the same union, and a pauper was settled in one of them (A.) and resided for three years in another (B.), and for two years in the third (C.), and was after 1865 removed from C. to A., it was held that he was wrongly removed (*Reg.* v. *Bolton-le-Sands*, 35 L. J. M. C. 54; 13 L. T. (N. S.) 523; 12 Jur. (N. S.) 371; 13 W. R. 177). Before the passing of the Union Chargeability Act, 1865, the contrary was held to be the law (*Reg.* v. *Salkeld*, 5 B. & S. 377; 33 L. J. M. C. 185; 10 L. T. (N. S.) 524).

By 4 & 5 Will. 4, c. 76, s. 109, "union" is to be construed to include any number of parishes incorporated for the relief or maintenance of the poor under any local Act. By a local Act certain townships, each separately maintaining its own poor, and several parishes were incorporated into a united district for the purpose of maintaining a house of industry for the poor of the whole district under a board of directors. Each parish or township had the separate care of, and paid for the maintenance of, its own poor in the house, under the management of the directors; but each contributed according to a fixed proportion to the general costs of the maintenance of the house. *Held* that the united district was a union within the meaning of 4 & 5 Will. 4, c. 76, s. 109, and 24 & 25 Vict. c. 55, s. 1, and that an aggregate residence of one year in two of the townships rendered a pauper irremovable (*Machynlleth Union* v. *Pool*, L. R. 4 Q. B. 592; 10 B. & S. 653; 38 L. J. M. C. 148; 20 L. T. (N. S.) 951; 17 W. R. 1016; 34 J. P. 197).

Where two parishes, in one of which a pauper was settled, were by a local Act united for all but ecclesiastical purposes, it was held that the pauper thereupon became settled in the united parishes, and was irremovable therefrom (*Reg.* v. *St. Martin, New Sarum*, 9 Q. B. 241; 15 L. J. M. C. 123; 2 N. S. C. 416; 10 Jur. 594).

BREAK OF RESIDENCE.

Except as provided in the proviso to this section with regard to the cases in which certain time is to be excluded in the computation of time of residence necessary to acquire irremovability, there must

BREAK OF RESIDENCE—*continued.*

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Note.

be no break in the residence, by removal or otherwise. If there be such a break, the time of residence begins to be reckoned *de novo* and the status of irremovability, if already acquired, is lost (*Reg.* v. *St. Anne, Blackfriars*, 2 E. & B. 441; 22 L. J. M. C. 137; 17 Jur. 575; *Reg.* v. *St. Mary Arches, Exeter*, 1 B. & S. 890; 31 L. J. M. C. 77; 8 Jur. (N. S.) 457).

By removal under an order.

A break of residence is caused by the removal of a pauper under an order of removal (*Reg.* v. *Halifax*, 12 Q. B. 111; 17 L. J. M. C. 158; 3 N. S. C. 268; 12 Jur. 789; *Reg.* v. *Seend*, 12 Q. B. 133; 18 L. J. M. C. 13; 3 N. S. C. 276; 12 Jur. 939; *Reg.* v. *Barnsley*, 12 Q. B. 193; 18 L. J. M. C. 170).

Where a valid order of removal which is unappealed against has been duly made and executed, there is a break in the residence, no matter for how short a period the pauper may have been actually absent. Thus where the pauper, on the very day on which he was removed, was allowed to return to the parish from which he was removed, upon an amicable arrangement being made by the overseers on both sides that the removing parish should be reimbursed any sums they should pay to him as relief: the court held that this was a break in the residence, and that the pauper was removable (*Reg.* v. *Caldecote*, 17 Q. B. 52; 20 L. J. M. C. 187; 15 Jur. 537).

But an order for removal, not followed by actual removal of the pauper, does not constitute a break in residence, and a status of irremovability can be acquired notwithstanding the making of the order (*Reg.* v. *Hendon*, 32 L. J. M. C. 202; 8 L. T. (N. S.) 276; 27 J. P. 677).

By absence.

An absence for a merely temporary purpose, with an intention to return, is no break of residence; but an intention to return at a remote period, after a permanent absence, is not sufficient to prevent the absence from operating as a break of residence (*Reg.* v. *Stapleton*, 1 E. & B. 766; 22 L. J. M. C. 102; 17 Jur. 549, *per* Crompton, J.; *Wellington* v. *Whitechurch*, 4 B. & S. 100; 32 L. J. M. C. 189; 8 L. T. (N. S.) 456; 10 Jur. (N. S.) 37; 27 J. P. 644).

Thus where the absence is under a contract and the party has no intention of returning, unless events over which he has no control should occur, this is a break of residence (*Reg.* v. *Stapleton*, *supra*); but where the intention is to return upon completion of the contract, it is no break of residence (*Reg.* v. *Brighton Poor, Directors*, 4 E. & B. 236; 24 L. J. M. C. 41; 24 L. T. 92; 1 Jur. (N. S.) 138; 3 W. R. 58).

So if a man leaves his wife and family in the parish where he has been residing, and goes elsewhere to seek work, making provision meanwhile for his wife and family, and afterwards returns to them, this is not necessarily a break of residence, the question is, had he an *animus revertendi* (*Reg.* v. *Tacolneston*, 12 Q. B. 157; 18 L. J. M. C. 44; 13 Jur. 80; 3 N. S. C. 353); and it is a matter for the justices to decide whether there has been an intention to return (*Reg.* v. *St. Marylebone*, 16 Q. B. 299; 20 L. J. M. C. 173; 4 N. S. C. 444).

The pauper, a tailor, having resided in the parish of B. for forty-five years, was admitted into the workhouse and worked there at his trade. R., a tailor, residing in the neighbouring parish of S., being in want of a hand, the master tailor of the workhouse told

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the pauper that he might go to R., and if R. and he did not agree he might come back. The pauper went to R. in the parish of S., and worked for him at 3*s.* a week with board and lodging for three weeks, when R. and the pauper not agreeing the pauper came back to the workhouse. If they had agreed the pauper might have continued working for R., and R. told the pauper that he might stay as long as he thought proper. In these circumstances the court held that there was a break of residence in B., and that the pauper was removable (*Reg.* v. *Worcester Union*, or *Reg.* v. *Birmingham*, L. R. 9 Q. B. 340; 43 L. J. M. C. 102; 38 J. P. 407).

The absence must not, however, be too prolonged, even though there be an *animus revertendi*. A man named Miller having a settlement in the parish of Nailsea, resided with his wife and family for upwards of twenty years in the parish of Nempnett in the county of Somerset, in a house which he rented at five guineas a year; in 1839, his wife and he not agreeing very well, he went into Wales to get work, leaving her in the house, and leaving an ass and cart with her to enable her to gain her livelihood in his absence; he returned in 1841, but he left again in 1843, and went to the county of Hereford, where he continued working at different places until 1851, when he returned to Nempnett, but not to his house where his wife lived, but to the house of his daughter, in the same parish, and resided with her until 1852, when upon his wife removing from his own house and taking the furniture with her, he went to reside in it, and was residing there when he became chargeable; but during the whole time of his absence, Miller had always an intention to return to his house in Nempnett. It was reserved as a question for the Court of Queen's Bench, whether the absence of Miller operated as a break in the residence; and the court held clearly that it did, and that he was no longer irremovable; the intention to return made no difference (*Reg.* v. *Nempnett Thrubwell*, 17 J. P. 83). A man, resident more than five years in the parish of Bolney, met with an accident in the parish of Cuckfield, and he was taken into the workhouse there to be cured of it; after being cured, he still remained in the workhouse for seven years, being afflicted with rheumatism, to which he was previously subject, but which had been much aggravated by the accident: the parish of Cuckfield, however, obtained an order for his removal to the parish of West Grinstead, his place of settlement; and the Court of Queen's Bench held it to be correct (*Reg.* v. *Cuckfield*, 5 E. & B. 523; 25 L. J. M. C. 4; 1 Jur. (N. S.) 1047).

And if there is no clear intention to return, absence for a very short period is sufficient to constitute a break of residence. A pauper resided in the parish of Scawby in the respondents' union for fifteen years continuously, when he became unable to work, and became chargeable to the respondent union. He continued, however, to reside in Scawby, and to receive relief from the respondents for two years and a half, occupying different houses during such period. In March, 1876, he received notice to quit the house he was then occupying, and accordingly sold part of his furniture, and arranged to take another house about half a mile distant, which, however, was in the parish of Bigby in the Caistor union, and on May 15th, 1876, removed into the house with his family and slept there one night, not knowing that he was removing into another union. On the next day he was told that his residence in the respondent union had been broken and at once returned to

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a house in a parish within that union. It was held that as he had left the respondent union with the intention of residing elsewhere, the one night's absence constituted a sufficient break of residence to make him removable (*Newark* v. *Glanford Brigg*, 2 Q. B. D. 522; 36 L. T. (N. S.) 793).

To entitle a pauper, however, to the benefit of constructive residence during a temporary residence, it is necessary not only that he intends to return, but that he should have a place of residence in the parish or union to which to return.

A pauper having occupied lodgings in the parish, left the parish, intending to return as soon as his trade became better; he did not retain his lodgings, but left some old clothes there in the hands of his landlord, and in his absence his lodgings were not occupied, and he could have had them at any time on his return. After three months' absence he returned; but it was held that he was not constructively resident in the parish during the three months, and that the absence formed a break in the residence (*Reg.* v. *Stourbridge*, 34 L. J. M. C. 179; 11 Jur. (N. S.) 799; 12 L. T. (N. S.) 512; 13 W. R. 836). A. B., who lived with her mother in parish C. for more than three years, hired herself as a domestic servant with a person in the parish of D., it being agreed that she should serve her mistress for a month upon trial, and at the end of that time, if both parties agreed, she was to continue in the service. At the end of the first month she left the service, and returned to her mother. She had no right so to return, nor had she left anything at her mother's house when she went into service. This temporary absence, the court held, constituted a break of residence (*Reg.* v. *Glossop*, L. R. 1 Q. B. 227; 35 L. J. M. C. 148; 13 L. T. (N. S.) 672; 14 W. R. 329). But where an irremovable pauper left the union on a visit for a short time, retaining no residence in the union, and afterwards returned to the union and was admitted to the workhouse, it was held that the absence for the purpose of the visit did not create a break of residence (*Reg.* v. *St. Ives*, L. R. 7 Q. B. 467; 41 L. J. M. C. 41; 26 L. T. (N. S.) 393; and to the same effect is *Guildford Union* v. *St. Olave's Union*, 25 L. T. (N. S.) 803; 36 J. P. 804).

Whether the pauper has a residence to which to return after the absence is not always an easy matter to determine. In June, 1868, a pauper sold off some of her furniture, and removed the rest to a spare room in the house of her brother-in-law, with whom she stayed off and on until January, 1869. She then went away and stayed with other relations and at an infirmary in other unions until after September of that year, when she returned to the house of her brother-in-law as before. In May, 1870, she took a cottage in the same union as that of the house in which she was staying, and put her furniture into it. In the following month she became chargeable to the union. The quarter sessions found that she had no legal right to return to the house of her brother-in-law after her departure in January, 1869, and therefore held that she had not acquired a status of irremovability in that union. The court sent the case back, in order that the justices might find as a fact whether or not her brother-in-law intended, when she went away, to receive her again as before, and intimated that their judgment would depend upon that fact (*Knaresborough Union* v. *Pateley Bridge Union*, 25 L. T. (N. S.) 590).

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Where the status of irremovability by virtue of a year's residence is shown to have existed, it is for the party alleging that it has ceased to exist to prove that to be the case. The leaving a residence, which has conferred the status of irremovability, must in general be the voluntary act of the party. Therefore, where a pauper lunatic, who was irremovable by residence in union R., whilst continuing there, had an acute attack of mania, and her mother took her away into the union of S., where an order was made for her maintenance upon the union of her settlement at W., it was held that the pauper had not lost her status of irremovability in union R., and the order was therefore bad (*Reg.* v. *Whitby*, L. R. 5 Q. B. 325; 39 L. J. M. C. 97; 22 L. T. (N. S.) 336; 34 J. P. 725). But where an imbecile child over sixteen years of age had lived with her father more than two years in the Hendon union, till October, 1891, when her father removed with all his family to the Hampstead union without any intention of returning, it was held that she thereby lost her status of irremovability in the Hendon union (*Hendon Union* v. *Hampstead Union*, 62 L. J. M. C. 170).

For cases as to irremovability of a wife and children, see notes to the Poor Removal Act, 1848 (11 & 12 Vict. c. 111), s. 1.

DEDUCTION OF TIME.

Deduction of time from computation of time of residence necessary for irremovability.

The proviso as to the deduction of time was held to be retrospective as well as the enacting part of the section (*Reg.* v. *Christchurch*, 18 L. J. M. C. 28).

Prisoners.

If the pauper be a prisoner, the time of the imprisonment is merely deducted from the whole time of residence; and if after such deduction there remain a residence of one year (not including any time during which he may be receiving relief), he will be irremovable. It was in one case holden that if the prison be out of the parish, the imprisonment there formed a break in the residence (*Reg.* v. *Salford*, 12 Q. B. 106; 17 L. J. M. C. 170). But that case has been overruled; and it is now holden that an imprisonment in or out of the parish, whether for felony, misdemeanour, or debt, is, for the purpose of obtaining a status of irremovability, no break in the residence, but the time of it is merely to be deducted, leaving the residue of it as the period of actual residence (*Reg.* v. *Hartfield*, or *Hartfield* v. *Rotherfield*, 17 Q. B. 746; 21 L. J. M. C. 65; wrongly stated in the head-note to the report in 66 L. J. Q. B. 471 of *St. Olave's Union* v. *Canterbury Union* to be overruled; *Reg.* v. *St. Andrew, Holborn*, 17 Q. B. 746; 21 L. J. M. C. 69; 16 Jur. 246; *Reg.* v. *Holbeck*, 16 Q. B. 404; 20 L. J. M. C. 107; 15 Jur. 271). And even though the pauper be imprisoned under a sentence of penal servitude, the imprisonment is no break in the residence (*Reg.* v. *Potterhandworth*, 1 E. & E. 262; 28 L. J. M. C. 56; 4 Jur. (N. S.) 1277; 22 J. P. 799; and see *Reg.* v. *Pott Shrigley*, 12 Q. B. 143; 18 L. J. M. C. 33; 13 Jur. 60, where transportation was held to effect a break of residence).

Soldiers, marines, or sailors.

The proviso that the time during which a person "shall be serving Her Majesty as a soldier, marine, or sailor," shall be excluded in the computation of the period of residence, admits of two constructions: either it includes soldiers, marines, and seamen in Her Majesty's service, and their wives and families from the privilege here given of irremovability altogether, for they are at all times serving Her Majesty; or it merely excepts from the computation of the qualifying period such time as the soldier, marine, &c.,

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may be absent from the parish on actual service. The point arose in *Reg.* v. *Stonehouse*, 17 L. J. M. C. 166; but it became unnecessary to decide it, the case being decided upon another ground (see also *Reg.* v. *East Stonehouse*, 4 E. & B. 901; 24 L. J. M. C. 121; 1 Jur. (N. S.) 573). In a subsequent case, relating to the same parish, where it appeared that a marine in 1846 married a woman residing in Stonehouse, and being in barracks there at the time and for two years afterwards, he slept with his wife in Stonehouse: he was then sent to serve on board a guardship at Plymouth (out of Stonehouse), where he remained for four years, but coming occasionally and sleeping with his wife at Stonehouse. The court held that he was not irremovable, although his wife and children resided in Stonehouse for more than five years, and as he was not irremovable the wife and children might (in his absence) be removed to his place of settlement (*Reg.* v. *East Stonehouse*, 23 L. J. M. C. 137). A militiaman has been holden to be a soldier within the meaning of the Act, and his absence for the purpose of training is not a break of residence (*Horton* v. *Leeds*, 5 E. & B. 595; 25 L. J. M. C. 38; 1 Jur. (N. S.) 1162; 19 J. P. 795).

Where a wife and her children had resided for upwards of five years in the parish of R., during which time her husband (an Irishman) was absent, serving Her Majesty as a soldier, it was held that the wife and children had not acquired a status of irremovability in that parish (*Reg.* v. *Kingston*, 21 L. T. (N. S.) 488).

A man and his wife resided in a parish until they had acquired a status of irremovability. The husband then enlisted as a soldier and went abroad on military service, accompanied by his wife. He died abroad in the service, and his widow returned to the parish where they had formerly resided. The court held that the wife's absence with her husband while he is on service is not excepted in the proviso to 9 & 10 Vict. c. 66, s. 1; that the status of irremovability which she enjoyed during the lifetime of her husband was gone, and that she was liable to be removed (*Euston* v. *St. Mary's, Marlborough*, L. R. 2 Q. B. 128; 36 L. J. M. C. 41).

Lunatics.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 4, "the removal of any lunatic pauper to an asylum, licensed house, or registered hospital, under the authority of the statutes in that behalf—or of any pauper, otherwise than under an order of removal, from his place of abode in any parish of a union to the workhouse of such union—shall not be deemed to be an interruption of the residence of such pauper within the meaning of 9 & 10 Vict. c. 66, s. 1, but the time spent in such lunatic asylum, licensed house, or registered hospital or workhouse respectively, and the time during which any person shall be relieved at the charge of the common fund of the union, shall be wholly excluded from the computation of the time of residence which, according to the provisions of such statute, will exempt a poor person from being removed." So the time during which a wife is maintained in a lunatic asylum at the expense of a union, must be deducted from the period which the husband must reside in the union in order to gain a status of irremovability (*Reg.* v. *St. George, Bloomsbury*, 4 B. & S. 108; 32 L. J. M. C. 217; 27 J. P. 662; *Ipswich Union* v. *West Ham Union*, 20 Q. B. D. 407; 52 L. T. 469; 36 W. R. 473).

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It has been argued from the use of the words "confined . . . as a patient in a hospital," that such part of the proviso applies only where a person is confined in a hospital as if he were a lunatic, and does not refer to ordinary residence in a hospital as a patient, but the court held that the time during which a person is in a hospital as a patient, not maintaining himself, but living at the expense of others, must be excluded in the computation of the time of residence in a parish necessary to acquire a status of irremovability (*St. Olave's Union* v. *Canterbury Union*, [1897] 1 Q. B. 682; 66 L. J. Q. B. 471; 76 L. T. 517; 45 W. R. 529; 61 J. P. 371; approving *Dorchester Union* v. *Weymouth Union*, 16 Q. B. D. 31; 55 L. J. M. C. 44; 54 L. T. 52; 50 J. P. 310).

Patients in hospitals.

Receipt of relief does not constitute a break of residence, but the time during which such relief is received is merely deducted from the time of residence. A pauper, residing in the parish of Harrow-on-the-Hill, became chargeable to that parish on December 9th, 1846, and an order was then made for his removal to Ruislip, as the place of his settlement: on an appeal against this order, it appeared that he had resided in Harrow for ten years, up to the date of the order, but that in 1844, whilst so residing, he had received relief from Ruislip; it was argued that this relief destroyed the continuity of the residence, and that as he had not resided five years after the relief given, he was not irremovable: but the Court of Queen's Bench, on a case stated, held that the period of relief was merely to be deducted from the five years, and had not the effect of putting an end to the residence (*Reg.* v. *Harrow-on-the-Hill*, 17 L. J. M. C. 118).

Receipt of relief.

A widow received relief for herself and children for five years, and, upon the death of the mother, an order being made for the removal of the children, it was objected that as by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 56, relief given to the children of a widow is deemed to be relief to the widow, the children were not relieved within the meaning of the proviso in 9 & 10 Vict. c. 66, s. 1, and were therefore not removable: the court held that on the fair construction of that proviso, relief given to the mother for the children was relief given to the children, and that they were therefore removable under the order (*Reg.* v. *Shavington-cum-Gresty*, 20 L. J. M. C. 194). But where a girl, above the age of sixteen, residing with her mother, became lunatic, and was removed from her mother to a lunatic asylum, and there maintained at the expense of the parish, this was holden not to be relief given to the mother, so as to render her removable (*Reg.* v. *St. Mary, Islington*, 3 B. & S. 46; 31 L. J. M. C. 233; 9 Jur. (N. S.) 155; 6 L. T. (N. S.) 606; 26 J. P. 661).

A wife was from time to time relieved in a lunatic asylum, but in her lucid periods returned to her husband; *held* that the husband gained a status of irremovability by residing in the parish for the aggregate period of a year, made up of the various periods during which his wife was not in the asylum; and that the wife also took her husband's status of irremovability (*Ipswich Union* v. *West Ham Union*, 20 Q. B. D. 407; 52 L. T. 469; 36 W. R. 473).

A pauper resided for upwards of three years in a penitentiary, which was supported by money collected at church offertories, and by subscriptions and donations from persons resident in all parts of the kingdom. *Held* that the money so collected was a

"*Bonâ fide* charitable gift."

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No widow liable to be removed for twelve months after death of husband.

II. No woman residing in any parish with her husband at the time of his death shall be removed, nor shall any warrant be granted for her removal, from such parish, for twelve calendar months next after his death, if she so long continue a widow

No child under sixteen residing with

III. No child under the age of sixteen years, whether legitimate or illegitimate, residing in any parish with his or her

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"*bonâ fide* charitable gift"; that the time during which the pauper resided in such penitentiary was not to be excluded in computing the time she resided in the parish; and that a three years' residence in the penitentiary conferred a settlement on the pauper, notwithstanding 54 Geo. 3, c. 170, s. 6 (*Fulham Union* v. *Thanet Union*, 7 Q. B. D. 539; 44 L. T. 138; 45 J. P. 552).

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Note.

The reduction to one year of the period of residence necessary for irremovability by the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 8, has, in conjunction with this section, the effect now of making a widow irremovable from the parish or union in which she was residing with her husband at the time of his death, not only for one year (*Reg.* v. *Cudham*, 1 E. & E. 499; 28 L. J. M. C. 105; 5 Jur. (N. S.) 269), but for so long afterwards as she continues to reside in such parish or union.

The irremovability of a widow under this section is lost by a break of residence within the year of her widowhood (*Reg.* v. *St. Marylebone*, 16 Q. B. 299; 20 L. J. M. C. 173; 4 N. S. C. 444; 15 Jur. 289).

As to the meaning of "residing with her husband": a husband was in Her Majesty's service as a marine, and on quitting the service he went to live with his wife and family at East Stonehouse, and resided with them for two years; he then entered the navy as a seaman, and served three years, his wife and family all the time inhabiting the same house in East Stonehouse; he then quitted the service, and came back and resided with his wife for about two months, when he was hired as a seaman on board a mail packet, and in a few months, whilst serving on board of it, was lost at sea: it was holden that the widow could not be removed from East Stonehouse for twelve months after his death; for although not personally present, East Stonehouse was the place of his domicile, and she must be deemed to be residing with him at the time of his death, within the meaning of the above section (*Reg.* v. *East Stonehouse*, 4 E. & B. 901; 24 L. J. M. C. 121; 1 Jur. (N. S.) 573; 23 L. T. 77).

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Note.

The provisions of this section are in effect extended to orphans by the Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 2.

A woman having three children, was living in the house of a man, with whom she cohabited, but as she was unable to maintain the children (one of whom was under the age of seven years), they were removed to the workhouse; about three months afterwards an order was obtained to remove them to the place of their mother's settlement, without the mother. As to the two children above the

father or mother, stepfather or stepmother, or reputed father, shall be removed, nor shall any warrant be granted for the

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parents, &c. liable to be removed unless parents &c. may be removed.

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age of seven, the court held clearly that the order was good, for the mother was removable, though not ordered to be removed; and as to the third child under seven, three of the judges (*dis.* Coleridge, J.) held that it was removable also, as it was not residing with the mother at the time (*Reg.* v. *Combs*, 5 E. & B. 892; 25 L. J. M. C. 59; 2 Jur. (N. S.) 255; 26 L. T. 218; 4 W. R. 243).

It is convenient to insert here certain cases decided as to the irremovability of children under the age of seven years, although they were not decided under this section, nor indeed under any statutory exception:—

Age of nurture.

It is a general rule that a child cannot be removed from its parent if it be under the age of seven years, which is called the age of nurture, even though the parent consent to or wish it (*Reg.* v. *Birmingham*, 5 Q. B. 210; 13 L. J. M. C. 1; 7 Jur. 1014; 7 J. P. 705); but if it become chargeable, and have a different settlement from its parent, it must be allowed to remain with the parent until it attain the age of seven years, or if the parent be removed it must be removed also to the same parish. And therefore, where a mother and her infant child of two years of age were removed to different parishes, as their respective places of settlement, the court held that a child of that age could not be separated from its mother, but must remain with her for nurture; and they therefore quashed the order (*Skeffreth* v. *Walford*, 2 Sess. Cas. 89).

If, however, at the time that a child within the age of nurture becomes chargeable, it is not in fact residing with its mother, it may be removed to its place of settlement on the same grounds as a child above that age (*Reg.* v. *St. Clement Danes*, 3 B. & S. 143; 32 L. J. M. C. 25; 9 Jur. (N. S.) 437; *Reg.* v. *Combs*, 5 E. & B. 892; 23 L. J. M. C. 59; 2 Jur. (N. S.) 55).

When a child, thus residing with its mother for nurture, but having its place of settlement elsewhere, becomes chargeable, the union or parish in which it resides must relieve it, and may then obtain an order upon the union or parish in which the child is settled from two justices of the county in which such union or parish is situate to reimburse them (*Rex* v. *Hemlington*, Cald. 6; 1 Doug. 9; *Shermanbury* v. *Bolney*, Carth. 279; *Wangford* v. *Brandon*, Carth. 449). The Court of Queen's Bench, however, will not compel justices by *mandamus* to make such an order (*Rex* v. *Middlesex*, 4 B. & Ald. 298; *Reg.* v. *St. George's, Middlesex*, 2 B. & S. 317; 31 L. J. M. C. 85; 8 Jur. (N. S.) 714; 5 L. T. (N. S.) 791; 26 J. P. 151), at least not until the place of settlement of the children shall have been first adjudged.

Three children, under the age of seven, whose mother was dead, and whose father could not be found, and who were residing with their grandparents, were removed by an order which adjudged that their lawful settlement was in the parish of Bradfield; it was objected that children of such tender age could not be removed without their parents, unless it appeared on the face of the order that the parents were dead; and that the order should have stated Bradfield to be the place of their father's last legal settlement, for he might possibly have gained another settlement, and then, if this order were not appealed against, the father and children would have different settlements; but the court held the order to be

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removal of such child, from such parish, in any case where such father, mother, stepfather, stepmother, or reputed father may not lawfully be removed from such parish.

Sick persons not liable to be removed except under certain circumstances.

IV. No warrant shall be granted for the removal of any person becoming chargeable in respect of relief made necessary by sickness or accident, unless the justices granting the warrant

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Note.

sufficient; if the father had gained a subsequent settlement, it was incumbent on the appellants to show it (*Rex* v. *Bucklebury*, 1 T. R. 164).

A widow whose parish of settlement was Aughton, but who was irremovable from Leeds by a five years' residence, had three children, and being unable to maintain them, the Leeds board of guardians made an order for the admission of such three children into the workhouse. A few weeks afterwards the overseers of Leeds obtained an order for the removal of the children to Aughton. The object of the board of guardians in sending them to the workhouse was to obtain their removal to their place of settlement. They were sent there with the consent of their mother, but she was not informed that the result of separating her children from her would be their removal to Aughton. Each of the children at the time of their removal was under seven years of age. *Held* that in the circumstances, the separation of the children from their mother was a fraud upon her, and that the order of removal was bad; also that, as the children were within the age of nurture, the mother could not consent to their separation from her (*Reg.* v. *Aughton*, 4 L. T. (N. S.) 244; 25 J. P. 711).

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Note.

The omission to comply with the requirements of this section is a good ground of appeal, when the chargeability is in respect of relief made necessary by sickness or accident, although that fact first comes out at the trial of the appeal (*Reg.* v. *Priors Hardwicke*, 18 L. J. M. C. 177; 13 J. P. 286). But where the chargeability is not occasioned by sickness or accident, it is not necessary to state this negative in the order of removal (*Reg.* v. *Llandoget*, 3 N. S. C. 517; 13 J. P. 286; S. P. *Reg.* v. *Goole*, 12 Q. B. 172; 13 J. P. 296); nor were examinations sent with the copy of an order of removal open to objection for not stating negatively that the relief was not made necessary by sickness or accident (*Reg.* v. *Halifax*, 12 Q. B. 111; 17 L. J. M. C. 158; 12 Jur. 790).

Incurable blindness has been holden to be a sickness within the meaning of this section (*Reg.* v. *Bucknell*, 3 E. & B. 587; 23 L. J. M. C. 129; 23 L. T. 142; 18 Jur. 533; 18 J. P. 503). But pregnancy is not a sickness within the Act; and therefore, where a girl was turned out of her service on account of being pregnant, and not being able to work for her livelihood on account of the advanced state of her pregnancy, she became chargeable, it was holden that she was removable (*Reg.* v. *Huddersfield*, 7 E. & B. 794; 26 L. J. M. C. 169; 3 Jur. (N. S.) 718; 22 J. P. 160; 5 W. R. 629).

This section applies to personal sickness, and gives personal exemption to sick persons only. Therefore, where a man, in consequence of sickness, left his wife and children in the respondent parish, and went into a hospital in another, and his wife and children became chargeable to the respondent parish, it was held that an order for their removal to the parish of his settlement need not

shall state in such warrant that they are satisfied that the sickness or accident will produce permanent disability. Sect. 5.

V. Provided always, that no person hereby exempted from liability to be removed shall by reason of such exemption acquire any settlement in any parish. Settlement not to be gained by exemption from liability to be removed.

VI. If any officer of any parish or union do, contrary to law, with intent to cause any poor person to become chargeable to any parish to which such person was not then chargeable convey any poor person out of the parish for which such officer acts, or cause or procure any poor person to be so conveyed, or give directly or indirectly any money, relief, or assistance, or Penalty on officers unlawfully conveying, &c. poor

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state that the justices were satisfied that the sickness would produce permanent disability (*Reg.* v. *St. George's, Middlesex*, 2 B. & S. 317; 31 L.J.M.C. 85; 8 Jur. (N.S.) 714; 5 L.T. (N.S.) 791; 26 J.P. 151). Sect. 4. Note.

Where a person becomes chargeable in respect of relief made necessary by reason of sickness or accident, and an order of removal is accordingly made, which states that the justices are satisfied that the sickness or accident will produce permanent disability, it is not competent to the appellants to dispute the fact of such sickness or accident being of a permanent character; and the quarter sessions have no authority to entertain a ground of appeal setting up such objection to the order of removal (*Reg.* v. *St. Mary and St. Andrew, Whittlesey*, 3 B. & S. 432; 32 L. J. M. C. 78; 9 Jur. (N. S.) 820; 7 L. T. (N. S.) 676; 27 J. P. 70).

But see now the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 34. Sect. 5. Note.

See the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 11, for the definition of "officer" and "justices" as used in this section. Sect. 6. Note.

Upon a criminal information against overseers for inducing a pauper to remove to another parish, the court refused to grant the information, as no circumstances were shown requiring prompt interference, and left the parties to their remedy by indictment (*Reg.* v. *Jennings*, 2 D. & L. 741; 14 L. J. M. C. 57; 1 N. S. C. 488; S. C. *Reg.* v. *Storwood*, 9 Jur. 448).

An indictment is not maintainable against a parish officer for removing a pauper under an order of removal after it has been confirmed, on appeal, by the sessions, subject to a case for the opinion of the Queen's Bench, and before the final determination of it by that court; it not being stated therein that such removal was effected by fraud, force, or menace (*Reg.* v. *Cooper*, 18 L. J. M. C. 16; 3 N. S. C. 346; 13 Jur. 99).

A relieving officer of W. union, gave B., who was resident in that union, an order to go into the union workhouse; but as B. did not go, but went to live with his daughter out of the union, S. obtained the order back, and afterwards B. became ill and applied to the C. union for relief. *Held* this was no reasonable evidence of S. committing an offence under this section, by causing B. to become chargeable to the C. union (*Shee* v. *Dannatt*, 26 J. P. 359).

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persons out of parishes, so as to make them chargeable to other parishes.

afford or procure to be afforded any facility for such conveyance, or make any offer or promise or use any threat to induce any poor person to depart from such parish, and if, in consequence of such conveyance or departure, any poor person become chargeable to any parish to which he was not then chargeable, such officer, on conviction thereof before any two justices, shall forfeit and pay for every such offence any sum not exceeding five pounds nor less than forty shillings.

Delivery of paupers under orders of removal.

VII. The delivery of any pauper, under any warrant of removal directed to the overseers of any parish, at the workhouse of such parish or of any union to which such parish belongs, to any officer of such workhouse, shall be deemed the delivery of such pauper to the overseers of such parish.

4 & 5 Will. 4, c. 76, &c. and this Act to be construed as one.

Recovery of penalties.

VIII. The Poor Law Amendment Act, 1834, and all Acts to amend and extend the same, and the present Act, except so far as the provisions of any former Act are altered, amended, or repealed by any subsequent Act, shall be construed as one Act; and all penalties and forfeitures imposed under this Act shall be recoverable as penalties and forfeitures under the said Act for the amendment of the laws relating to the poor.

Extent of Act.

IX. This Act shall extend only to England.

[Sect. 10. Repealed by the S. L. R. Act, 1875.]

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Note.

See the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 13, as to the delivery of statement of charges for the maintenance of any pauper removed and delivered at the workhouse of another parish or union.

Paupers removed under an order obtained by the guardians should now be delivered at the workhouse of the union or parish in which the settlement is, or to some officer of the guardians, such as the workhouse master or the relieving officer. (See the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 2.)

The court will not grant a *mandamus* requiring union or parish officers to receive a pauper in obedience to an order of removal. The proper course in case of refusal is by indictment (*Ex parte Downton, Overseers*, 8 E. & B. 856; 27 L. J. M. C. 281).

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Note.

As to the effect of this section in respect of the terms "parish," "city" and "union," see cases cited in notes to sect. 1, *supra*.

BATHS AND WASH-HOUSES ACT, 1846.

9 & 10 VICT. CHAP. 74.

An Act to encourage the Establishment of public Baths and Wash-houses. [26th August, 1846.]

[This Act is printed here mainly on account of the provisions in sects. 16—19, 24, which however are not comprehensible without the rest of the Act.]

[*Preamble.*]

This Act may be adopted in boroughs and in parishes not within boroughs.

[I.] This Act may be adopted for any incorporated borough in England which is regulated under an Act passed in the sixth year of the reign of His late Majesty, to provide for the regulation of municipal corporations, or any charter granted in pursuance of the said Act, or any Act passed for the amendment thereof, and also, with the approval of one of Her Majesty's principal Secretaries of State, for any parish in England not within any such incorporated borough. 5 & 6 Will. 4 c. 76.

Interpretation.

II. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

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"Borough." "Borough" shall mean city, borough, port, cinque port, or town corporate:

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"Churchwardens." "Churchwardens" shall mean also chapelwardens or other persons discharging the duties of churchwardens:

"Overseers." "Overseers" shall mean also any persons authorized and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor:

"Vestry." "Vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry elected under the Vestries Act, 1831, or elected under the provisions of any local Act of Parliament for the government of any parish by vestries, in which parishes it shall mean such select vestry: 1 & 2 Will. 4, c. 60.

"Commissioners." "Commissioners" shall mean the commissioners appointed in accordance with this Act for any parish, and for the time being in office and acting as such commissioners:

"Clerk." "Clerk" shall mean, as regards an incorporated borough, the town clerk of such borough; and, as regards a parish,

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the clerk appointed pursuant to this Act by the commissioners :

"Justice." "Justice" shall mean justice of the peace for the county, riding, division, liberty, borough, or place, where the matter requiring the cognizance of justices shall arise :

"Lands." "Lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure :

Gender. Words importing the masculine gender shall include the feminine :

Number. Words of the plural number shall include the singular, and words of the singular number shall include the plural.

[Sect. 3. *Authorizing councils of boroughs to adopt Act:* Repealed by the S. L. R. Act, 1875.]

IV. [*Provision that expenses of carrying this Act into execution shall be charged upon the borough fund, and levied by a rate as part of or with the borough rate: Repealed by the S. L. R. Act*, 1875] the income arising from the baths and wash-houses and open bathing places in any borough shall be paid to the credit of the borough fund thereof, and the council shall keep distinct accounts of their receipts, payments, credits and liabilities, with reference to the execution of this Act, to be called "The public Baths and Wash-houses Account."

Income to be carried to borough fund, and separate accounts kept.

Adoption of Act by vestry of parish not within a borough.

V. Upon the requisition in writing of ten or more ratepayers of any such parish as aforesaid, not being within any such incorporated borough, the churchwardens or other persons to whom it belongs to convene meetings of the vestry in such parish shall convene a meeting of the vestry for the special purpose of determining whether this Act shall be adopted for the parish, after public notice of such vestry, and the place and hour of holding the same, and the special purpose thereof, given in the usual manner in which notice of the meetings of the vestry is given, at least seven days before the day to be appointed for holding such vestry ; and if thereupon it shall be resolved by the vestry that this Act ought to be adopted for the parish, a copy of such resolution extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of Her Majesty's principal Secretaries of State for his approval, and as soon as such approval shall have been signified in writing under the hand of any such Secretary of State, such of the provisions of this Act as are applicable in that behalf shall thenceforth take effect and come into operation in the parish : Provided always, that no such resolution of the vestry shall be

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Sect. 5. Note. In rural parishes the adoption of this Act is now regulated by the provisions of sect. 7 of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

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deemed to be carried, unless at least two-thirds of the number of votes given on the question, according to the usual manner of voting at such vestry, shall have been given for such resolution.

Appointment of commissioners for carrying Act into execution.

VI. In such case the vestry shall appoint not less than three nor more than seven persons, being ratepayers of the parish, commissioners for carrying this Act into execution in the parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves), shall go out of office yearly, but shall be eligible for immediate re-appointment.

Resignation of commissioners.

VII. Any commissioner may at any time resign his office as a commissioner, on giving seven days' notice in writing of his intention to resign to the clerk, and also to the churchwardens.

Vacancies.

VIII. Any vacancies in the commissionership may be filled up by the vestry, when and as the vestry shall think fit.

Meetings of commissioners.

IX. The commissioners shall meet at least once in every calendar month at their office, or some other convenient place previously publicly notified.

Special meetings of commissioners.

X. The commissioners may meet at such other time as at any previous meeting shall be determined upon, and it shall be at all times competent for any one commissioner, by writing under his hand, to summon, with at least forty-eight hours' notice, the commissioners for any special purpose therein named, and to meet at such times as shall be therein named.

Quorum of meetings of commissioners.

XI. At all meetings of the commissioners any number not less than one-third of the whole number when more than three commissioners shall have been appointed, and when only three commissioners shall have been appointed then any number not less than two commissioners, shall be a sufficient number for transacting business, and for exercising all the powers of the commissioners.

Commissioners may appoint and remove officers, and pay their salaries, and may hire an office.

XII. The commissioners shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for effecting the purposes of this Act, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business, and may agree for and pay a reasonable rent for such office.

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Note.

In rural parishes the appointment will be made by the parish council (Local Government Act, 1894, s. 6 (1) (*a*)).

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Minutes of proceedings of commissioners.

XIII. All orders and proceedings of the commissioners shall be entered in books, to be kept by them for that purpose, and shall be signed by the commissioners, or any two of them ; and all such orders and proceedings so entered, and purporting to be so signed, shall be deemed to be original orders and proceedings ; and such books may be produced and read as evidence of all such orders and proceedings upon any appeal, trial, information, or other proceeding, civil or criminal, and in any court of law or equity whatsoever.

Commissioners to keep accounts.

XIV. The commissioners shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this Act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money shall have been paid and such liabilities shall have been incurred ; and such books shall at all reasonable times be open to the examination of every commissioner, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same ; and in case the commissioners, or any of them, or any of their officers or servants having the custody of the said books, being thereunto reasonably requested, shall refuse to permit or shall not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copy or extract, every commissioner, officer, or servant so offending shall for every such offence forfeit any sum not exceeding five pounds.

Auditors to be appointed yearly, who shall examine the accounts, and report to vestry.

XV. The vestry shall yearly appoint two persons, not being commissioners, to be auditors of the accounts of the commissioners, and at such time in the month of March in every year after the adoption of this Act for the parish as the vestry shall appoint the commissioners shall produce to the auditors their accounts, with sufficient vouchers for all monies received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.

Expenses of executing Act to be paid out of the poor rate.

XVI. The expenses of carrying this Act into execution in any parish not within such incorporated borough, to such amount as shall be from time to time sanctioned by the vestry, shall be chargeable upon and paid out of the monies to be raised or applicable for the relief of the poor of the parish.

Overseers to levy, as part of the poor

XVII. For defraying the expenses which shall have been or shall be incurred in carrying this Act into execution in the

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Note.

In rural parishes the amount must be sanctioned by the parish meeting (Local Government Act, 1894, s. 7 (3)).

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Note.

See note to sect. 16, *supra*.

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parish the vestry may and shall from time to time order the overseers to levy with and as part of the rate for the relief of the poor of the parish such sums as the vestry shall deem necessary, and the amount thereof shall accordingly be assessed, levied, paid, and recovered in like manner, and with the like powers and remedies in all respects, as such rate, and shall be paid by the overseers, according to the order of the vestry, to such person as shall be appointed by the commissioners to receive the same, and his receipt shall be a sufficient discharge to the overseers for the same, and shall be allowed accordingly in passing their accounts.

rate, such sums as vestry shall deem necessary to pay expenses, and pay the same to person appointed by commissioners.

XVIII. The money raised for defraying the expenses of carrying this Act into execution, and the income arising from the baths and wash-houses and open bathing places in the parish shall be applied by the commissioners in or toward defraying the expenses of carrying this Act into execution in the parish; and whenever, after repayment of all monies borrowed for the purpose of carrying this Act into execution in the parish, and the interest thereof, and after satisfying all the liabilities of the commissioners with reference to the execution of this Act in the parish, and providing such a balance as shall be deemed by the commissioners sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the commissioners they shall pay the same to the overseers in aid of the rate for the relief of the poor of the parish.

Monies raised and the income arising from baths, &c. in the parish, to be applied towards defraying expenses.

Surplus to be paid to overseers in aid of poor rate.

XIX. The vestries of any two or more neighbouring parishes which shall have respectively adopted this Act may concur in carrying this Act into execution in such parishes in such manner, not inconsistent with the provisions of this Act, and for such time, as they shall mutually agree; and for that purpose it may, with the approval of such Secretary of State, be agreed on between such vestries that any public baths and wash-houses and open bathing places shall be erected and made in any one of such parishes to be vested in the commissioners thereof, and that the expenses of carrying this Act into execution with reference to the same shall be borne by such parishes in such proportions as such vestries shall mutually agree, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the commissioners appointed for each of such parishes shall, in the management of the said baths and wash-houses, and open bathing places, form one body of commissioners, and shall act accordingly in the execution of this Act, and the accounts and vouchers of such commissioners shall be examined

Vestries of two or more parishes may concur in carrying this Act into execution subject to the approval of the Secretary of State.

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and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such commissioners shall be paid to the overseers of such parishes respectively, in the same proportions as those in which such parishes shall be liable to such expenses.

Incorporation of commissioners.

XX. The commissioners of every such parish shall be a body corporate, with perpetual succession, which shall not be deemed to be interrupted by any partial or total vacancy from time to time in their office, by the name of "The Commissioners for public Baths and Wash-houses in the Parish of ( ) in the County of ( )," and by that name may sue and be sued in all courts, and before all justices and others, and may have and use a common seal, and by that name may take, hold, and convey any lands vested in them for the purposes of this Act.

Councils and commissioners, &c. may borrow money for the purposes of the Act, with the approval of the Treasury.

XXI. For carrying this Act into execution in any borough or parish respectively, the council, with the approval of the Treasury, and the commissioners, with the sanction of the vestry, and also with the approval of the Treasury, may from time to time borrow at interest, on the security of a mortgage, as the case may be, of the borough fund, or of the rates for the relief of the poor of the parish, the money which may be by them respectively required, and shall apply the monies so borrowed accordingly.

The Public Works Loan Commissioners may advance money for the purposes of this Act.

5 & 6 Vict. c. 9.

XXII. The commissioners for carrying into execution an Act passed in the second session of the fifth year of the reign of Her Majesty, intituled "An Act to authorize the advance of Money out of the Consolidated Fund to a limited amount for carrying on Public Works and Fisheries, and Employment of the Poor; and to amend the Acts authorizing the issue of Exchequer bills for the like purposes," may from time to time make to the . . . commissioners of any such parish respectively, for the purposes of this Act, any loan under the provisions of the recited Act or the several Acts therein recited or referred to, upon security of . . . the rates for the relief of the poor of the parish, . . .

Provisions of 8 & 9 Vict. c. 16, as to borrowing money, accountability of officers, bye-laws, damages, and penalties, incorporated with this Act.

XXIII. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the borrowing of money by any company on mortgage, and the provisions of the same Act with respect to the accountability of the officers of the company, and the provisions of the same Act with respect to the making of bye-laws, subject to the provisions herein-after contained, and the provisions of the same Act with respect to the recovery of damages not specially provided for, and penalties, so far as such provisions may respectively be applicable to the purposes of this Act, shall be respectively incorporated with this Act: and the expressions in such provisions applicable to the company and

the directors shall apply, as regards a borough, to the council and, as regards a parish, to the commissioners; and all deeds and writings which under such provisions are required or directed to be made or executed under the common seal of the company shall in the application of such provisions to this Act be deemed to be required or directed to be made or executed, as regards a borough, under the common seal of the mayor, aldermen, and burgesses, and, as regards a parish, under the common seal of the commissioners; and so much of such provisions as are applicable to the "secretary of the company" shall apply to the clerk; and in such of the said provisions as relate to the inspection of accounts, as regards a borough, the burgesses, and, as regards a parish, the ratepayers, shall have the privileges of shareholders.

Council may appropriate, with consent of the Treasury, lands vested in the mayor, &c. Commissioners may with approval of vestry, &c. appropriate lands belonging to parish.

XXIV. In any such borough the council, with the approval of the Treasury, may from time to time appropriate for the purposes of this Act in the borough any lands vested in the mayor, aldermen, and burgesses; and in any such parish the commissioners appointed under this Act, with the approval of the vestry and of the guardians of the poor of the parish (if any,) and of the Poor Law Commissioners for England and Wales, may from time to time appropriate for the purposes of this Act in the parish any lands vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish; and in any such parish the commissioners, with the approval of the vestry, and in any such borough the council, may from time to time contract for the purchasing or renting of any lands necessary for the purposes of this Act, and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish.

Council or commissioners may contract for purchase or hire of lands.

Councils and commissioners may erect, &c. public baths and wash-houses and open bathing places.

XXV. The council and commissioners respectively may from time to time, on any lands so appropriated, purchased, or rented, or contracted so to be respectively, erect any buildings suitable for public baths and wash-houses, and as to such wash-houses either with or without open drying grounds, and make any open bathing places, and convert any buildings into public baths and wash-houses, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences.

Councils and commissioners may enter into contracts for the purposes of this Act.

XXVI. The council and commissioners respectively may from time to time enter into any contract with any persons or companies for building and making, and for altering, enlarging, repairing, and improving, such public baths and wash-houses and open bathing places, and for supplying the same respectively

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with water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act; which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by the council or the commissioners for the purposes of this Act, unless previous to the making thereof fourteen days' notice shall be given in one or more of the public newspapers published in the county in which the borough or parish shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the council or commissioners at a certain time and place in such notice to be mentioned; but it shall not be incumbent on the council or commissioners to contract with the person offering the lowest price.

No contract above 100*l.* to be entered into without notice, enabling persons to make tenders.

Council or commissioners may purchase existing baths, &c.

XXVII. The council of any such borough, and the commissioners, with the approval of the vestry, of any such parish, may, if they shall think fit, contract for the purchase or lease of any baths and wash-houses already or hereafter to be built and provided in any such borough or parish, and appropriate the same to the purposes of this Act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any public baths and wash-houses which have been already or may hereafter be built or provided in any such borough or parish, by private subscriptions or otherwise, may, with the consent of the council of any such borough, or with the consent of the commissioners and approval of the vestry of any such parish, and with the consent of the majority of the committee or other persons by whom they were appointed trustees, sell or lease the said baths and wash-houses to the said council or commissioners respectively, or make over to them the management of such baths and wash-houses; and in all such cases the baths and wash-houses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this Act as fully as if they had been built or provided by the said council or commissioners; and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish.

Trustees of such baths, &c. empowered to sell or lease them.

Power to water and gas companies to

XXVIII. Any commissioners of waterworks, trustees of waterworks, water companies, canal companies, gas companies, and

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other corporations, bodies, and persons having the management of any waterworks, canals, reservoirs, wells, springs, and streams of water, and gas works respectively, may in their discretion grant and furnish supplies of water or gas for such public baths and wash-houses and open bathing places, either without charge or on such other favourable terms as they shall think fit.

supply water and gas to baths, &c. either without charge or on reduced terms.

XXIX. Nothing in this Act contained shall render any member of the council of any borough or any commissioner personally, or any of their lands, goods, chattels, or monies, (other than such lands, goods, chattels, or monies as may be vested in or under the management or control of the council or commissioners respectively in pursuance of this Act,) liable to the payment of any sum of money as or by way of compensation or satisfaction for or in respect of any thing done or suffered in due pursuance of this Act.

Councillors and commissioners not to be personally liable.

XXX. Every person who shall feel aggrieved by any bye-law, order, direction, or appointment of or by the council or commissioners shall have the like power of appeal to the general quarter sessions as, under the provisions of the Companies Clauses Consolidation Act, 1845, incorporated with this Act, he might have if feeling aggrieved by any determination of any justice with respect to any penalty.

Appeals against order of councils and commissioners.

8 & 9 Vict. c. 16.

XXXI. The council, with the approval of the Treasury, and the commissioners appointed under this Act, with the approval of the vestry and of the Treasury respectively, may from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the commissioners respectively for the purposes of this Act, and apply the proceeds in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better adapted for such purposes; and the mayor, aldermen, and burgesses, or the commissioners, may convey the lands so sold or exchanged accordingly.

Council, &c. empowered to make sale and exchange of lands, with consent of Treasury, &c.

XXXII. Whenever any public baths or wash-houses or open bathing places which shall have been for seven years or upwards established under the authority of this Act shall be determined by the council or by the vestry, in accordance with a previous recommendation of the commissioners, to be unnecessary, or too expensive to be kept up, the council or commissioners, with the approval of the Treasury, may sell the same for the best price that can reasonably be obtained for the same; and the mayor, aldermen, and burgesses, or the commissioners, shall convey the same accordingly; and the purchase-money shall be paid to such person as the council or

When baths, &c. are considered unnecessary or too expensive, they may, with approval of Treasury, be sold, and proceeds of sale carried to borough fund or poor rate.

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commissioners shall appoint, and his receipt shall be a sufficient discharge for the same; and the net proceeds of such sale shall be paid to the credit of the borough fund, or of the rate for the relief of poor of the parish.

Management to be vested in councils and parish commissioners.

XXXIII. The general management, regulation, and control of the public baths and wash-houses and open bathing places established under this Act shall, subject to the provisions of this Act, be, as to any borough, vested in and exercised by the council, and, as to any parish, vested in and exercised by the commissioners.

Bye-laws for regulating baths and wash-houses.

XXXIV. The bye-laws which the council and commissioners respectively may from time to time make, alter, repeal, and enforce shall include such bye-laws for the management, use, and regulation of the public baths and wash-houses and open bathing places, and of the persons resorting thereto respectively, and for determining from time to time the charges for the use of such baths and wash-houses and open bathing places respectively, as the council and commissioners respectively shall think fit; and they respectively may appoint any penalty not exceeding five pounds for any and every breach, whether by their officers or servants, or by other persons, of any bye-law made by them respectively; and such bye-laws shall make sufficient provision for the several purposes respectively expressed in the schedule (A.) to this Act: Provided always, that no bye-law made under the authority of this Act shall be of any legal force until the same shall have received the approval of one of Her Majesty's principal Secretaries of State.

Copies or abstracts of bye laws to be hung up in every bath-room, &c.

XXXV. A printed copy or sufficient extract of the bye-laws relating to the use of the baths and open bathing places respectively shall be put up in every bath-room and open bathing place respectively; and a printed copy or sufficient abstract of the bye-laws relating to the use of the wash-houses shall be put up in some convenient place near every washing tub or trough, or every pair of washing tubs or troughs, in every wash-house.

Proportion of baths for the labouring classes.

XXXVI. The number of baths for the labouring classes in any building or buildings under the management of the same council or commissioners shall not be less than twice the number of the baths of any higher class, if but one, or of all the baths of any higher classes, if more than one, in the same building or buildings.

[Sect. 37. Repealed by the S. L. R. Act, 1875.]

Recovery of charges at wash-houses.

XXXVIII. For the recovery of the charges at such wash-houses the officers, servants, and others having the management thereof may detain the clothes brought to be washed, or

other goods and chattels, of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made, and in case such payment be not made within seven days may sell such clothes, goods, and chattels, or any of them, returning the surplus proceeds of such sale, after deducting the unpaid charge and the expenses of such detention and sale, and the unsold articles, if any, on demand, to such person. Sect. 38.

XXXIX. If any clerk or other officer, or any servant who shall be in anywise employed by any council or commissioners in pursuance of this Act, shall exact or accept any fee or reward whatsoever for or on account of any thing done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such salaries, wages, or allowances as shall have been appointed by the council or commissioners, or shall in anywise be concerned or interested in any bargain or contract made by the council or commissioners for or on account of any thing done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to the putting of this Act into execution, or if any person during the time he holds the office of member of the council or commissioner shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this Act, or be concerned directly or indirectly in any such bargain or contract, every such person so offending shall be incapable of ever serving or being employed under this Act, and shall for every such offence also forfeit the sum of fifty pounds. Penalty on officers taking fees beyond salaries, or being interested in contracts; also on councillors or commissioners taking fees or accepting offices, or being interested in contracts.

XL. Such part of any penalty recovered under this Act as shall not be awarded to the informer shall be paid to the credit, as regards a borough, of the borough fund, and, as regards a parish, of the rate for the relief of the poor thereof. Application of penalties.

[Sect. 41. Repealed by the S. L. R. Act, 1875.]

SCHEDULES REFERRED TO BY THE FOREGOING ACT.

SCHEDULE (A.). Sect. 34.

Bye-laws to be made in all cases.

For securing that the baths and wash-houses and open bathing places shall be under the due management and control of the officers, servants, or others appointed or employed in that behalf by the council or commissioners.

For securing adequate privacy to persons using the baths

Schedules.

and wash-houses and open bathing places, and security against accidents to persons using the open bathing places.

For securing that men, and boys above eight years old, shall bathe separately from women and girls, and children under eight years old.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the council or commissioners.

In parishes. For regulating the procedure of the commissioners.

[Schedule (B.). Repealed by the S. L. R. Act, 1875.]

POOR REMOVAL ACT, 1847.

10 & 11 VICT. CHAP. 33.

An Act to amend the Laws relating to the Removal of poor Persons from England . . . [21st June, 1847.]

[Preamble recited 8 & 9 Vict. c. 117, and 8 & 9 Vict. c. 83.]

Guardians, &c. may take persons whom they believe to be removable under the first-recited Act before two justices, without summons, &c.

[I.] It shall be lawful for any guardian, relieving officer, or overseer of any parish or union in England to take and convey before two justices of the peace, without summons or warrant, every poor person who shall become chargeable to any parish in England, and who he may have reason to believe is liable to be removed from England under the first-recited Act; and the justices before whom any such person shall be so brought shall hear and examine and proceed in the same manner in all respects as if such person had been brought before them under and in the manner directed by that Act.

[Sect. 2. *Inspectors of the poor, &c., in Scotland, to take persons removable therefrom under 8 & 9 Vict. c. 83, before sheriff without previous complaint*: Repealed by the S. L. R. Act, 1892.]

Persons taking paupers before

III. Every person who by this Act is authorized to take and convey any poor person before any . . . justices shall in the

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Sect. 1. Note.

By the Poor Removal Act, 1861 (24 & 25 Vict. c. 76), s. 1, and the Poor Removal Act, 1862 (25 & 26 Vict. c. 113), s. 1, the warrant of removal must be signed in petty sessions by two justices or a magistrate.

Sect. 3. Note.

This section contained the words *sheriff or* before the word "justices," but in consequence of the repeal of sect. 2, *supra*, they are now omitted in the Revised Edition of the Statutes. A similar provision is contained in 8 & 9 Vict. c. 117, s. 3.

execution of this Act in that behalf have and exercise all the rights, privileges, powers, and immunities with which a constable is by law invested. Sect. 3. justices to have powers of constables.

IV. In the construction of this Act the singular number or masculine gender shall, except when the context excludes such construction, be understood to include and shall be applied to several persons, matters, or things, as well as to one person matter, or thing, and to females as well as males respectively; and the words "justices of the peace" shall be understood to include and extend to a justice of the peace or magistrate of a county, county of a city, or county of a town, or of any city or town corporate. Interpretation.

[Sect. 5. Repealed by the S. L. R. Act, 1875.]

POOR LAW BOARD ACT, 1847.

10 & 11 VICT. CHAP. 109.

An Act for the Administration of the Laws for Relief of the Poor in England.* [23rd July, 1847.]

[Preamble recited 4 & 5 Will. 4, c. 76, and amending Acts.]

[I.] . . . whenever in this Act the word commissioners shall be used, without addition, it shall be taken to mean the . . . Commissioners for Administering the Laws for Relief of the Poor in England. Meaning of "commissioners" in this Act.

[Sects. 2—4. *Relating to the composition of the board:* Repealed by the S. L. R. Act, 1875.]

V. The commissioners shall cause a seal to be made for their use, and such seal shall have the same force and effect as the seal of the Poor Law Commissioners now has in England, and Seal of the commissioners.

* All the powers, &c., of the Poor Law Commissioners and Poor Law Board are now vested in and exercised by the Local Government Board. (34 & 35 Vict. c. 70.)

Sect. 5. Note.

For the reception in evidence of such documents, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 71; the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), s. 5; and the Documentary Evidence Acts, 1868 and 1882 (31 & 32 Vict. c. 37; 45 & 46 Vict. c. 9).

Copies of orders or rules do not require to be sealed or stamped. (See Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 14.)

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documents purporting to be sealed or stamped therewith shall be received in evidence in like manner and with the like effect as documents sealed or stamped with the seal of the Poor Law Commissioners are now received in evidence.

[Sects. 6—9. *Relating to officers' salaries, &c.:* Repealed by the S. L. R. Act, 1875.]

Transfer to the commissioners under this Act of the powers and duties of the Poor Law Commissioners.

X. All the powers and duties of the Poor Law Commissioners with respect to the administration or control of the administration of relief to the poor throughout England, and all other powers and duties now vested in them, shall be transferred to and vested in the commissioners, and shall be thenceforth exercised by them, . . . and all provisions in any Act relating to the administration of relief to the poor in England, or to the powers or duties of the Poor Law Commissioners, shall be construed as if in the said several Acts the commissioners had been named instead of the Poor Law Commissioners, subject nevertheless to any amendments made by this Act, either as to the substance or manner of exercising any of the powers of the said Poor Law Commissioners.

Power to summon witnesses, &c.

XI. The commissioners, by summons under their seal may require the attendance of all persons upon any matter connected with the execution of any of the powers by law vested in them, at such time and place as shall be set forth in the summons, and may make inquiry and require returns, and require and enforce the production upon oath of books, contracts, agreements, accounts, maps, plans, surveys, valuations, and writings, or copies thereof respectively, in anywise relating to any such matter, and the commissioners or any one of them may upon such matters administer oaths, and examine upon oath all persons so brought before them or him, and, when they or he shall think fit, instead of requiring such oath as aforesaid, may require any such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined: Provided always, that no person shall be required, in obedience to any such order, to go more than ten miles from the place of his abode: Provided also, that nothing herein contained shall empower the commissioners to require the production of the title, or of any paper or deed relating to the title, of any lands, tenements, or hereditaments, not being the property of any parish or union.

[Sect. 12. *Repealing certain enactments as to the records of the commissioners:* Repealed by the S. L. R. Act, 1875.]

Annual report of commissioners.

XIII. The commissioners shall once in every year submit to Her Majesty a general report of their proceedings, and every such general report shall be laid before both Houses of Parliament within six weeks after the date thereof, if Parliament be

then sitting, or, if Parliament be not then sitting, within six weeks after the next meeting of Parliament. Sect. 13.

XIV. . . . the power vested in the Poor Law Commissioners to make rules, orders, and regulations, and from time to time to vary or rescind the same, shall be vested in the commissioners constituted under this Act . . . ; and the commissioners shall make all such rules, orders, and regulations under their seal, except such as are intended only for their own guidance or procedure or for the guidance or procedure of any persons appointed or employed by them for the business of their office, . . . Power to make rules, orders, and regulations.

XV. Every rule, order, or regulation of the commissioners which at the time of issuing the same shall be directed to and affect more than one union shall be deemed a general rule, and every rule, order, and regulation made to vary or rescind a general rule, whether it be directed to or affect one or more than one union, shall also be deemed a general rule. What rules shall be deemed general rules.

[Sect. 16. *Repealing so much of 4 & 5 Will. 4, c. 76, as relates to the making, time of taking effect, and disallowance of general rules:* Repealed by the S. L. R. Act, 1875.]

XVII. If Her Majesty shall be pleased at any time, by the advice of her Privy Council, to disallow any such general rule, or any part thereof, the same, so far as it shall have been so disallowed, shall cease to be of any force or validity, except as to all things lawfully done under the same before such disallowance, which shall be and continue to be valid. If general rules are disallowed by Her Majesty in Council, they shall cease to be of any force.

[Sect. 18. *Confirming existing rules:* Repealed by the S. L. R. Act, 1875.]

XIX. The commissioners shall from time to time, by order under their seal, appoint so many fit persons as shall be allowed by the Treasury to be inspectors, to assist in the execution of this Act and of other Acts now or which shall be hereafter in force for the relief of the poor in England, and may from time to time assign to the inspectors so appointed, or any Appointment of inspectors.

The Poor Law Commissioners were empowered to make rules, &c., by 4 & 5 Will. 4, c. 76, s. 15. Sect. 14. Note.

See also 4 & 5 Will. 4, c. 76, ss. 17, 42, which were repealed in part by sect. 16 of this Act. Sect. 15. Note.

A general power of appointing inspectors is now vested in the Local Government Board by 34 & 35 Vict. c. 70, s. 3. Sect. 19. Note.

Sect. 19.

of them, such duties in the execution of this Act as they think fit; and the commissioners, by order under their seal, may remove all or any of the said inspectors, and appoint others in their stead; and there shall be paid to every such inspector such salary as shall be from time to time regulated by the Treasury.

Inspectors may visit workhouses, &c. and attend boards of guardians and other local meetings.

XX. The said inspectors, and each of them, shall be entitled to visit and inspect every workhouse or place wherein any poor person in receipt of relief shall be lodged, and to attend every board of guardians and every parochial and other local meeting held for the relief of the poor, and to take part in the proceedings, but not to vote at such board or meeting.

Power to summon witnesses.

XXI. The said inspectors may summon before them such persons as they may think necessary for the purpose of being examined before them upon any matter concerning the administration of the laws relating to the relief of the poor, or any other matter placed by law under the control or regulation of the commissioners, or for the purpose of producing and verifying upon oath any books, contracts, agreements, accounts, writings, or copies of the same, in anywise relating to such matter, and not relating to or involving any question of title to any lands, tenements, or hereditaments, not being the property of any parish or union, and may examine any person whom they shall so summon, or who shall voluntarily come before them to be examined upon any such matter, upon oath, which each of the said inspectors shall be empowered to administer, or, instead of administering an oath, the inspector may require the party examined to make and subscribe a declaration of the truth of the matter respecting which he shall have been or shall be so examined; and all summonses made by any such inspector for any such purpose as aforesaid shall be obeyed by all persons as if such summons had been the summons and order of the commissioners, and the non-observance thereof shall be punishable in like manner; and the costs and expenses of such person so summoned shall be paid in such cases and in such manner as the costs and expenses of persons summoned under the

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Sect. 20.

Note.

Mandamus will lie to guardians under a local Act to admit a poor law inspector to their meetings, and to take part in their proceedings other than voting thereat. The power to inspect a workhouse is not limited to merely looking at the place, but the inspector may at the time do such things as may be necessary to enable him to procure such information as the Local Government Board may require with regard to the building (*Reg.* v. *St. Pancras*, 22 J. P. 384; *Reg.* v. *St. Marylebone*, 6 Jur. (N. S.) 1094).

Sect. 21.

Note.

Penalties for not obeying a summons of the commissioners were imposed by 4 & 5 Will. 4, c. 76, s. 13, but that section is now repealed and replaced by sect. 26 of this Act, *infra*.

authority of the first-recited Act are now payable: Provided always, that no person shall be required in obedience to any such summons to go or travel more than ten miles from his place of abode. Sect. 21.

XXII. . . . whenever it may seem fitting to the commissioners, they, with the consent of the Treasury, may appoint some fit person to act as an inspector for the purpose of conducting any special inquiry for a period not exceeding thirty days, and the said commissioners may delegate to every person so appointed for the purpose of conducting such inquiry all such of the powers of the said commissioners as they may deem necessary or expedient for summoning witnesses and conducting such inquiry. Appointment of inspectors for the purpose of conducting special inquiries.

XXIII. Provided always, that when any two persons, being husband and wife, both of whom shall be above the age of sixty years, shall be received into any workhouse, in pursuance of the provisions of the said recited Act or of this Act, or of any rule, order, or regulation of the commissioners appointed by authority of this Act, such two persons shall not be compelled to live separate and apart from each other in such workhouse. Married persons, being both above sixty years of age, not compelled to live apart in workhouses.

XXIV. In all cases where boards of guardians neglect to appoint a visiting committee for the purpose of visiting the workhouse of the union, or when three months shall have elapsed during which such committee shall have neglected to visit such workhouse, the Poor Law Commissioners shall be required to appoint a visitor, not being one of the guardians, at a salary to be fixed by them, to be paid out of the general fund of the union: Provided always, that the appointment of any such paid visitor shall cease at the expiration of three calendar months next after the appointment of any visiting committee by the guardians, subject nevertheless to his re-appointment in case of any repetition of such neglect of the guardians or visiting committee as aforesaid. Where guardians neglect to appoint a visiting committee, or committee neglect to visit the workhouse, the commissioners shall appoint a visitor.

Part of this section repealing part of 5 & 6 Vict. c. 57, s. 2, as to appointment of assistant commissioners to hold special inquiries is repealed by the S. L. R. Act, 1875. Sect. 22. Note.

Further provision as to allowing married couples to live together in a workhouse is contained in the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 10. Sect. 23. Note.

The obligation to appoint a visiting committee is imposed on boards of guardians by art. 148 of the Gen. Cons. Order, July 24th, 1847, and the duties of the committee defined by art. 149. Sect. 24. Note.

Sect. 25.

Proof of order constituting board of guardians not necessary in certain cases.

Qualification or due election of a guardian not to be questioned after a certain time.

XXV. In any civil or criminal proceeding it shall not be necessary to prove the sending of the original order of the Poor Law Commissioners, or of the commissioners, constituting any board of guardians, in any case in which any persons professing to form a board in obedience to such order shall have taken upon themselves to act, and shall have continued for three years to act, in the execution of the laws for the relief of the poor; and in no proceeding shall it be lawful to question the qualification or validity of the election of any person as a guardian after the end of twelve months next following the election, or the time when the alleged disqualification or want of qualification of the person against whom such proceeding shall be directed shall have arisen.

False evidence, and refusal to give evidence.

XXVI. Every person who upon any examination under the authority of this Act shall wilfully give false evidence, or wilfully make or subscribe a false declaration, shall on being convicted thereof suffer the pains and penalties of perjury; and every person who shall refuse or wilfully neglect to attend in obedience to any summons of the commissioners, or any inspector, or to give evidence, or who shall wilfully alter, suppress, conceal, destroy, or refuse to produce any books, contracts, agreements, accounts, maps, plans, surveys, valuations, or writings, or copies of the same, which may be required to be produced for the purposes of this Act, to any person authorized by this Act to require the production thereof, shall be deemed guilty of a misdemeanour.

[Sect. 27. *Confirming proceedings under recited Acts:* Repealed by the S. L. R. Act, 1875.]

[Sect. 28. *Commission to continue for five years:* Repealed by 30 & 31 Vict. c. 106, s. 1.]

Construction. 4 & 5 Will. 4, c. 76. 5 & 6 Vict. c. 57, &c.

XXIX. This Act shall be construed in the same manner as the Poor Law Amendment Act, 1834, and the Poor Law Amendment Act, 1842, and the several Acts passed for the amendment of the said Acts or either of them, and as one Act with the same, and with the Acts and provisions thereby directed to be construed as one Act, unless where otherwise directed by this Act.

[Sect. 30. *Act may be amended:* Repealed by the S. L. R. Act, 1875.]

Sect. 25. Note.

The latter portion of this section is now superseded so far as regards any matter which can be tried on election petition, by sect. 88 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), which is applied to elections of guardians by sect. 48 (3) of the Local Government Act, 1894 (56 & 57 Vict. c. 73). The limit of twelve months will, however, remain in respect of any proceedings by *quo warranto*, if any such proceedings can be taken, as to which see *Reg.* v. *Morton*, [1892] 1 Q. B. 39; 61 L. J. Q. B. 39; 65 L. T. 611; 40 W. R. 109; 56 J. P. 105.

POOR LAW PROCEDURE ACT, 1848.

11 & 12 VICT. CHAP. 31.

An Act to amend the Procedure in respect of Orders for the Removal of the Poor in England and Wales, and Appeals therefrom. [22nd July, 1848.]

[Preamble recited that the sending of a copy of the examination in removal cases produced expensive and useless litigation upon points of mere form.]

[Sect. 1. *Repealing so much of 4 & 5 Will.* 4, c. 76, s. 79, *as provides in cases of orders of removal that the notice thereby required to be sent by the overseers or guardians of the parish obtaining the order shall be accompanied by a copy of the examination upon which the order of removal was made:* Repealed by the S. L. R. Act, 1875.]

Notice of removal order to be accompanied by a statement of grounds of removal.

II. Instead thereof such notice shall be accompanied by a statement in writing under the hands of such overseers or such guardians, or any three or more of such guardians, setting forth the grounds of such removal, including the particulars of the settlement or settlements relied upon in support thereof: Provided always, that on the hearing of any appeal against any order of removal it shall not be lawful for the respondents to go into or give evidence of any other grounds of removal than those set forth in such statement.

Clerk to justices making the order to

III. The clerk to the justices who shall make any order of removal shall keep the depositions upon which such order was

Sect. 2.

Note.

The statement accompanying the notice, so far as relates to the particulars of settlement set up by the respondents, is the same in form, and subject to the same rules as to certainty, &c., as the statement of the particulars of settlement in grounds of appeal under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 81 (*q. v.*). By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 4, the statement is sufficiently authenticated if signed by the clerk to the guardians in their name.

Although by this section the respondents are precluded from going into or giving evidence of any grounds of removal, or, in other words, of any settlements other than those stated in the grounds, yet they are not thereby precluded from calling other witnesses than those examined before the justices at the time the order was made, nor are they obliged to call the witnesses who were examined; but it seems they may prove their grounds of "removal" or settlement, in any manner they please, without reference to the examination (*Reg.* v. *Yelvertoft*, 6 Q. B. 801; 1 N. S. C. 476).

Sect. 3.

Note.

The effect of the first proviso to this section is that no omission or insufficiency in the examinations before the justices, and no improper reception of evidence by them can be made a ground of appeal against the order. Thus, where the whole of the evidence before the justices making the order was mere hearsay, it was held that that fact was not a good ground of appeal (*Reg.* v. *St. Peter, Barton-on-Humber*, 17 Q. B. 630; 21 L. J. M. C. 23).

When a copy of the depositions is applied for, the time for appealing against the order is extended by sect. 9, *infra*.

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keep depositions, and furnish a copy on application to overseers, &c. of parish to which removal is ordered.

made, and shall within seven days furnish a copy of such depositions to the overseers or guardians as aforesaid of the parish to which the removal is by such order directed to be made, if such overseers or such guardians shall apply for such copy, and pay for the same at the rate of twopence for every folio of seventy-two words; provided that no omission or delay in furnishing such copy of the depositions shall be deemed or construed to be any ground of appeal against the order of removal; provided also, that on the trial of any appeal against an order of removal no such order shall be quashed or set aside, either wholly or in part, on the ground that such depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to, the order or grounds of removal.

IV. [*Recital that a statement of the grounds of removal or of appeal is required to be communicated for the purpose of enabling the party receiving it to inquire thereinto, and prepare for trial.*]

On appeal against order of removal, no objections to statement, &c. to prevail unless court be of opinion that statement is insufficient.

Power for court to amend.

Upon the hearing of any appeal against an order of removal no objection whatever on account of any defect in the form of setting forth any ground of removal or of appeal in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of a ground of removal or appeal alleged to be set forth in any such statement shall prevail, unless the Court shall be of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial: Provided always, that in all cases where the court shall be of opinion that any such objection to such statement or to the reception of evidence ought to prevail, it shall be lawful for such court, if it shall so think fit, to cause any such statement of grounds of removal or appeal to be forthwith amended by some officer of the court or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions or to the next subsequent sessions, or both payment of costs and postponement, as to such court shall appear just and reasonable.

Costs where frivolous or vexatious

V. If either of the parties to the said appeal shall have included in the statement of grounds of removal or of appeal sent to the

Sect. 4.

Note.

By sect. 7, *infra*, the decision of quarter sessions upon the sufficiency or otherwise of the grounds of removal or appeal is final.

Where the grounds of removal did not allow evidence to be given of a former order of removal unappealed against, and the court, on application, added a ground expressly setting forth this, it was held that it was competent to the court to make such an amendment under this section (*Reg.* v. *Llangenny*, 4 B. & S. 311; 32 L. J. M. C. 265; 10 Jur. (N. S.) 126; S. C. *Llangenny* v. *Merthyr Tydvil*, 8 L. T. (N. S.) 696; 27 J. P. 452).

Sect. 5.

Note.

See also as to frivolous grounds of appeal the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 4.

opposite party any ground or grounds of removal or of appeal which shall, in the opinion of the court determining the appeal, be frivolous and vexatious, such party shall be liable, at the discretion of the said court, to pay the whole or any part of the costs incurred by the other party in disputing any such ground or grounds, such costs to be recovered in the same manner as any penalties or forfeitures are recoverable under the Poor Law Amendment Act, 1834.

Sect. 5. grounds included in statement.

4 & 5 Will. 4, c. 76.

[Sect. 6. *Authorizing amendment of order of removal on appeal or on return to writ of* certiorari: Repealed by the S. L. R. Act, 1875.]

VII. The decision of the court upon the hearing of any appeal against any order of removal, as well upon the sufficiency and effect of the statement of the grounds of removal and of appeal,

Decision of court, upon hearing of appeal, statement, to be final.

Sect. 5. Note.

The recovery of penalties and forfeitures under the Poor Law Amendment Act, 1834, is provided for by sects. 99, 101 of that Act. Penalties, &c., are, however, now recoverable under the S. J. Acts.

If a general traverse in a ground of appeal amounts to a vexatious denial of several facts stated in the depositions, the sessions should award the costs of proving them (*Reg.* v. *St. Pancras*, 19 L. J. M. C. 23; 13 Jur. 1077).

Appellants having entered and respited an appeal, did not deliver grounds of appeal, and afterwards gave notice of abandoning the appeal, but did not satisfy the respondents as to costs; the respondents at the next quarter sessions moved (the appellants not being present) that the order might be confirmed. The sessions confirmed the order of removal, and awarded costs to be paid by the appellants to the respondents; and it was held, on *certiorari*, that although the confirmation was in excess of jurisdiction, the order of sessions was valid as to the award of costs (*Reg.* v. *Over*, 14 Q. B. 425; 19 L. J. M. C. 57).

Sect. 6. Note.

An enactment to the same effect as that contained in this repealed section is now contained in the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 7.

Sect. 7. Note.

The question whether the statement of grounds of appeal contains sufficient particulars is for the sessions to determine; and when they have decided that the statement is insufficient to let the appellants into their case, the High Court will not grant a *mandamus* to the sessions to enter continuances and hear the appeal (*Reg.* v. *Kesteven JJ.*, 3 Q. B. 810; 13 L. J. M. C. 78; 1 N. S. C. 151; overruling on this point *Reg.* v. *Carnarvonshire JJ.*, 2 Q. B. 325; 11 L. J. M. C. 3; and *Reg.* v. *Yorkshire JJ.*, 2 Q. B. 331). The decision of the sessions is final on the point.

A case cannot be stated by quarter sessions upon any of the matters mentioned in this section with regard to which the decision of the sessions is declared to be final; and the High Court has no jurisdiction to review the decision of the sessions upon a case stated upon any of the above grounds (*Reg.* v. *Ruyton-of-the-Eleven-Towns*, 1 B. & S. 534; 30 L. J. M. C. 229; 7 Jur. (N. S.) 967).

Sect. 7.

and of the notice of chargeability, and of the copy or counterpart of the order of removal sent to the appellant parish, as upon the amending or refusing to amend the order of removal as aforesaid or the statement of grounds of removal or appeal, shall be final, and shall not be liable to be reviewed in any court, by means of a writ of *certiorari* or *mandamus*, or otherwise.

Orders of removal, whether appealed against or not, may be abandoned by overseers, &c.

VIII. In any case in which an order shall have been made for the removal of any poor person, and a copy or counterpart thereof sent as by law required, it shall and may be lawful for the overseers or guardians of the parish who shall have obtained such order of removal, whether any notice of appeal against such order shall or shall not have been given, and whether any appeal shall have been entered or not, to abandon such order by notice in writing under the hands of such overseers or guardians, or any three or more of such guardians, to be sent by post or delivered to the overseers or guardians as aforesaid of the parish to which such person is by the said order directed to be removed; and thereupon the said order and all proceedings consequent thereon, shall become and be null and void to all intents and purposes, as if the same had not been made, and shall not be in any way given in evidence in case any other order of removal of the same person shall be obtained: Provided always, that in all cases of such abandonment the overseers or guardians of the parish so abandoning shall pay to the overseers or guardians of the parish to which such person is by the said order directed to be removed the costs which the said last-mentioned overseers or guardians shall have incurred by reason of such order and of all subsequent proceedings thereon, which costs the proper officer of the court before whom any such appeal (if it had not been abandoned) might have been brought shall and he is hereby required, upon application, to tax and ascertain at any time, whether the court shall be sitting or not, upon production to him of such notice of abandonment, and upon proof to him that such reasonable notice of taxation, together

Costs in case of abandonment.

Sect. 8.

Note.

Before the passing of this Act the overseers of the removing parish might abandon the order of removal—and take back the pauper, if he had been removed—even after notice of appeal given, and after the removal of the pauper (*Reg.* v. *Yorks. W.R. JJ.*, 2 Q. B. 705; 11 L. J. M. C. 57), provided it were before the entry of the appeal (*Rex* v. *Llanrhydd*, Burr. S. C. 358; *Rex* v. *Diddlebury*, 12 East, 359).

Now, even after the appeal has been entered and respited, if the respondents give notice of abandonment of the order of removal, the sessions have no power to proceed with the appeal: and if they quash the order and give costs to the appellants, their order is void and cannot be removed by *certiorari* into the High Court for the purpose of enforcing it (*Reg.* or *Killymaenllwydd* v. *St. Michael's, Pembroke*, 21 L. J. M. C. 79; 16 Jur. 87).

with a copy of the bill of costs, has been given to the overseers or guardians abandoning such order as the distance between the parishes shall in his judgment require, and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be indorsed upon the said notice of abandonment, and the said notice so indorsed shall be filed among the records of the said court; and if the said costs so allowed be not paid within ten days after such costs shall have been lawfully demanded, the amount thereof may be recovered from such last-mentioned overseers or guardians in the same manner as any penalties or forfeitures are recoverable under the Poor Law Amendment Act, 1834. 4 & 5 Will. 4, c. 76.

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IX. No appeal shall be allowed against any order of removal if notice of such appeal be not given, as required by law, within the space of twenty-one days after the notice of chargeability and statement of the grounds of removal shall have

Limitation of appeals.

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Note.

Notice of appeal is regulated by the Poor Relief Act, 1722 (9 Geo. 1, c. 7), s. 8, and the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 79. The meaning of the "further period of fourteen days" here appears to be, that if the twenty-one days expire before the fourteen, the appellants shall have the whole of the fourteen days to give their notice; but if the fourteen days expire before the twenty-one, the appellants shall have the whole of the twenty-one days for the purpose. And the twenty-one and the fourteen days must be reckoned the first day exclusive, the last inclusive. This section has no reference to the "grounds of appeal" required to be delivered by 4 & 5 Will. 4, c. 76, s. 81, which may be given either with the notice of appeal, or fourteen days before the sessions, but is confined entirely to the notice of appeal (*Reg.* v. *Derby, Recorder of*, 20 L. J. M. C. 44).

Orders for the removal of paupers are excepted from the provisions of the S. J. Acts, by the S. J. Act, 1848 (11 & 12 Vict. c. 43), s. 35, and therefore the provision of the S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 31, requiring notice of appeal from an order of a court of summary jurisdiction to be given within seven days after the day on which the decision of the court was given, does not apply to an appeal from an order of removal (*Reg.* v. *Somersetshire JJ.*, 22 Q. B. D. 625; 58 L. J. M. C. 155; 60 L. T. 834; 37 W. R. 492; 53 J. P. 470).

The notice of chargeability and statement of grounds of removal may be sent by post (14 & 15 Vict. c. 105, s. 10; 28 & 29 Vict. c. 79, s. 4), but if they are, they are not deemed to be "sent" within the meaning of this section until they are received in the due course of post. Thus, notice and statement were posted on September 28th, and received in due course on the 29th. The appellants applied for a copy of depositions by post on October 19th, and the application was received in due course by the respondents on the 20th; the appellants received a copy of the depositions on the 21st, and gave notice of appeal on the 28th. *Held* that the day of actually receiving the notice and statement according to the due course of post was the day on which they were "sent" within the

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been sent by the overseers or guardians of the removing parish to the overseers or guardians of the parish to which such order shall be directed, unless within such period of twenty-one days a copy of the depositions shall have been applied for as aforesaid by the last-mentioned overseers or guardians, in which case a further period of fourteen days after the sending of such

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Sect. 9. Note.

meaning of this section, that application for a copy of the depositions was therefore made within twenty-one days, and that consequently the notice of appeal was in time (*Reg.* v. *Richmond, Recorder of*, E. B. & E. 253; 27 L. J. M. C. 197; 31 L. T. 115; 4 Jur. (N. S.) 456; and see *Reg.* v. *Slawstone*, 18 Q. B. 388; 21 L. J. M. C. 145; 16 Jur. 1066, for case of delay in the post).

The appellants have not, by 11 & 12 Vict. c. 31, s. 9, twenty-one days *plus* the fourteen days after the delivery of the depositions, so as to entitle them as of right to have the appeal entered and respited, if after those days have expired there does not remain enough time before the sessions to deliver an effective notice of appeal according to the practice of the sessions; and the sessions may, in their discretion, refuse to respite if they deem that the appellants have been guilty of unreasonable delay in giving their notice of appeal. Thus, an order of removal was served on August 30th: a copy of the depositions was applied for, and the copy was delivered on September 19th; notice of intention to commence and enter an appeal at the next sessions was sent on October 1st, the sessions commenced for the eastern division of the county on October 15th, and for the western division, to which this appeal belonged, on October 18th: the time for notice of trial of an appeal was by the practice of the county eight days. On an application being made by the appellants at the sessions for an adjournment of the trial, it was refused by the sessions on the ground that it was practically possible for the appellants to have been ready to try the appeal in the forty-four days which had elapsed since service of the order: and the Court of Exchequer Chamber held that they had arrived at a right decision in so doing, and refused a *mandamus* to the sessions to enter continuances and hear the appeal (*Reg.* v. *Sussex JJ.*, [1865] 4 B. & S. 966; 34 L. J. M. C. 69; 11 Jur. (N. S.) 300; 11 L. T. (N. S.) 40; overruling on this point *Rex* v. *Suffolk JJ.*, [1836] 4 A. & E. 319; 5 L. J. M. C. 3; and *Reg.* v. *Suffolk JJ.*, [1847] 16 L. J. M. C. 36). In delivering the judgment of the Exchequer Chamber, Erle, C.J., said "There is ample authority for saying that an appellant cannot by his dilatory conduct make the sessions impracticable, which were in fact practicable; see *Reg.* v. *Sevenoaks JJ.*, 7 Q. B. 136; 14 L. J. M. C. 92; *Reg.* v. *Peterborough JJ.*, 7 E. & B. 643; 26 L. J. M. C. 153; *Reg.* v. *Yorks. W.R. JJ.*, [1858] E. B. & E. 713; 27 L. J. M. C. 269; and *Reg.* v. *Skircoat*, 2 E. & E. 185; 28 L. J. M. C. 224. It has been said in some of these cases that the appellant may take all the time, that is, twenty-one days *plus* fourteen days, without losing the right of appeal. This is true where more than thirty-five days intervene between the service of the order of removal and the beginning of the sessions; but not true according to the statutes above reviewed, where the sessions begin within the thirty-five days."

The above case is not, however, to be considered as requiring the justices to dismiss an appeal under similar circumstances: it

copy shall be allowed for the giving of such notice of appeal; but in such case no poor person shall be removed under such order of removal until the expiration of such further period of fourteen days. Sect. 10.

X. All the provisions which relate to the sending and service of copies of orders of removal shall apply to such orders when suspended, and to all orders consequent upon such suspension, and to all copies of charges arising thereon, and demands of payment of such charges. Service of suspended orders of removal, &c.

XI. The Poor Law Amendment Act, 1834, and all Acts to amend and extend the same, and the present Act, shall (except so far as the provisions of any former Act are altered, amended, or repealed by any subsequent Act) be construed as one Act. Construction. 4 & 5 Will. 4, c. 76.

[Sects. 12, 13. Repealed by the S. L. R. Act, 1875.]

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decided that they should use their discretion in each case in ascertaining whether or not the sessions are the next practicable sessions (*Reg.* v. *Derbyshire JJ.*, [1872] 25 L. T. (N. S.) 161; 35 J. P. 663). Sect. 9. Note.

An order of removal from the parish of A. to the parish of B. was made and duly served with other documents on October 23rd, 1861. On November 6th the appellants applied to the respondent overseers for a copy of the depositions, "as (they stated) it is intended to appeal against such order of removal." The respondents took no notice whatever of this application, and on the expiration of twenty-one days they removed the paupers. On December 10th the appellants gave notice of appeal, and on the 20th they applied to the justices' clerk for copies of the depositions. At the ensuing January sessions the appellants applied to enter and respite their appeal, which was entered and respited accordingly; but upon the order of sessions for such entry and respite being brought up to be quashed, it was held that the appellants had lost their right of appeal by not giving their notice in time; their application on November 6th for copies of the depositions being made to the wrong parties (*i.e.*, to the parish officers instead of to the clerk to the justices), and that such application was not of itself a notice of appeal (*Reg.* v. *St. Alkmund, Derby*, 3 B. & S. 347; 32 L. J. M. C. 99; 7 L. T. (N. S.) 622; 9 Jur. (N. S.) 744; 27 J. P. 54).

If the notice of appeal is otherwise good, an erroneous statement therein that the appeal will be made to the county instead of the borough sessions, or *vice versâ*, will not invalidate it (*Reg.* v. *Liverpool, Recorder of*, 15 Q. B. 1070; 14 J. P. 782; *Reg.* v. *Bucks JJ.*, 4 E. & B. 259; 24 L. J. M. C. 15; 18 Jur. 1079; 24 L. T. 110; but see *contrà*, *Reg.* v. *Salop JJ.*, [1855] 4 E. & B. 257; 24 L. J. M. C. 14; 18 Jur. 1080).

The sending and service of copies of orders of removal are regulated by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 79, 84; the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 10, as to service by post; and the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), ss. 3, 4. Sect. 10. Note.

INDICTABLE OFFENCES ACT, 1848.

11 & 12 VICT. CHAP. 42.

An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Persons charged with Indictable Offences. [14th August, 1848.]

[The three sections of this Act printed below are incorporated into the S. J. Act, 1848 (11 & 12 Vict. c. 43), by sect. 6 of that Act, and for that reason are included here.]

* * * * *

Provision where justices act for two adjoining counties, &c.

V. In cases where a justice of the peace for any county, riding, division, liberty, city, borough, or place shall be also justice of the peace for a county, riding, division, liberty, city, borough, or place next adjoining thereto or surrounded thereby, it shall and may be lawful for such justice of the peace to act as such justice for the one county, riding, division, liberty, city, borough, or other place, whilst he is residing or happens to be in the other such county, riding, division, liberty, city, borough or other place, in all matters and things herein-before or hereafter in this Act mentioned; and all such acts of such justice, and the acts of any constable or other officer in obedience thereto, shall be as valid, good, and effectual in the law, to all intents and purposes, as if such justice at the time he shall so act as aforesaid were in the county, riding, division, liberty, city, borough, or other place, for which he shall so act; and all constables and other officers for the county, riding, division, liberty, city, borough, or place for which such justice shall so act as aforesaid are hereby authorized and required to obey the warrants, orders, directions, act or acts of such justice which in that behalf shall be granted, given, or done, and to do and perform their several offices and duties in respect thereof, under the pains and penalties to which any constable or other officer may be liable for a neglect of duty; and any such constable or other peace officer, or any other person, apprehending or taking into custody any person offending against law, and whom he lawfully may and ought to apprehend or take into custody, by virtue of his office or otherwise, in any such county, riding, division, liberty, city, borough, or place, may lawfully take and convey such person so apprehended and taken as aforesaid to and before any such justice of the peace for such county, riding, division, liberty, city, borough, or place, whilst such justice shall be in such adjoining county, riding, division, liberty, city, borough, or place as aforesaid, and the said constables and other peace officers, and all such other persons as aforesaid, are hereby authorized and required in all such cases so to act in all things as if the

said justice of the peace were within the said county, riding, division, liberty, city, borough, or place for which he shall so act.

Justices for a county, &c. may act for it in an adjoining city or place of exclusive jurisdiction.

VI. It shall be lawful for any justice or justices of the peace acting for any county at large, or for any riding or division of such county, to act as such at any place within any city, town, or other precinct, being a county of itself, or otherwise having exclusive jurisdiction, and situated within, surrounded by, or adjoining to any such county, riding, or division respectively; and all and every such act and acts, matters and things, to be so done by such justice or justices within such city, town, or precinct, as justice or justices for such county, riding, or division respectively, shall be as valid and effectual in law as if the same had been done within such county, riding, or division respectively, to all intents and purposes whatsoever: Provided always, that nothing in this Act contained shall extend to give power to the justices of the peace for any county, riding, or division, not being also justices for such city, town, or other precinct, or not having authority as justices of the peace therein, or any constable or other officer acting under them, to act or intermeddle in any matters or things arising within any such city, town, or precinct, in any manner whatsoever.

Powers of justices, &c. in detached parts of counties.

VII. [*Recital of* 2 *&* 3 *Vict. c.* 82.] All the acts of any justice or justices, and of any constable or officer in obedience thereto, shall be as good in relation to any detached part of any county which is surrounded in whole or in part by the county for which such justice or justices acts or act as if the same were to all intents and purposes part of the said county; and all constables and other officers of such detached part are hereby required to obey the warrants, orders, and acts of such justice or justices, and to perform their several duties in respect thereof, under the pains and penalties to which any constable or other officer may be liable for a neglect of duty.

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SUMMARY JURISDICTION ACT, 1848.

11 & 12 VICT. CHAP. 43.

An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions, within England and Wales, with respect to summary Convictions and Orders.

[14th August, 1848.]

[This Act is printed here in full for the purposes of reference, but the notes are confined to matters specially arising in respect of proceedings relative to the poor law only.]

[*Preamble.*]

Where information laid that an offence punishable on summary conviction has been committed, &c. summons.

[I.] In all cases where an information shall be laid before one or more of Her Majesty's justices of the peace for any county, riding, division, liberty, city, borough, or place, within England or Wales, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such justice or justices for which he is liable by law, upon a summary conviction for the same before a justice or justices of the peace, to be imprisoned or fined, or otherwise punished, and also in all cases where a complaint shall be made to any such justice or justices upon which he or they have or shall have authority by law to make any order for the payment of money or otherwise, then and in every such case it shall be lawful for such justice or justices of the peace to issue his or their summons directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain time and place before the same justice or justices, or before such other justice or justices of the same county, riding, division, liberty, city, borough, or place as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law; and every such summons shall be served by a constable or other peace officer, or other person to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him at his last or most usual place of abode; and the constable, peace officer, or person who shall serve the same in manner aforesaid shall attend at the time and place and before the justices in the said summons

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Note.

Service of a summons for non-payment of poor rate is regulated by the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), s. 5; and the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 39.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 27, where a union extends into several distinct jurisdictions, every matter, act, charge or complaint by which the guardians thereof are affected, or in which they have any interest, shall for the purpose of jurisdiction be deemed to arise or exist equally throughout the union.

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mentioned, to depose, if necessary, to the service of the said summons: Provided always, that nothing herein mentioned shall oblige any justice or justices of the peace to issue any such summons in any case where the application for any order of justices is by law to be made *ex parte*: Provided also, that no objection shall be taken or allowed to any information, complaint, or summons, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, or summons and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint, as herein-after mentioned; but if any such variance shall appear to the justice or justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

Provisions as to issue of warrant for accused.

II. If the person so served with a summons as aforesaid shall not be and appear before the justice or justices at the time and place mentioned in such summons, and it shall be made to appear to such justice or justices, by oath or affirmation, that such summons was so served what shall be deemed by such justice or justices to be a reasonable time before the time therein appointed for appearing to the same, then it shall be lawful for such justice or justices, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information or complaint to his or their satisfaction, to issue his or their warrant to apprehend the party so summoned, and to bring him before the same justice or justices, or before some other justice or justices of the peace in and for the same county, riding, division, liberty, city, borough, or place, to answer to the said information or complaint, and to be further dealt with according to law; or upon such information being laid as aforesaid for any offence punishable on conviction the justice or justices before whom such information shall have been laid may, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information to his or their satisfaction, instead of issuing such summons as aforesaid, issue in the first instance his or their warrant for apprehending the person against whom such information shall have been so laid, and bringing him before the same justice or justices, or before some other justice or justices of the peace in and for the same county, riding, division, liberty, city, borough or place, to answer to the said information, and to be dealt with according to law; or if, where a summons shall be so issued as aforesaid, and upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned, such party shall fail to appear accordingly in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the justice or justices then present that

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such summons was duly served upon such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for such justice or justices of the peace to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon, as fully and effectually, to all intents and purposes, as if such party had personally appeared before him or them in obedience to the said summons.

Form and contents of warrant.

III. Every such warrant to apprehend a defendant, that he may answer to any such information or complaint as aforesaid, shall be under the hand and seal or hands and seals of the justice or justices issuing the same, and may be directed either to any constable or other person by name, or generally to the constable of the parish or other district within which the same is to be executed, without naming him, or to such constable and all other constables within the county or other district within which the justice or justices issuing such warrant hath or have jurisdiction, or generally to all the constables within such last-mentioned county or district, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the constable or other person to whom it is directed to apprehend the said defendant, and to bring him before one or more justice or justices of the peace (as the case may require) of the same county, riding, division, liberty, city, borough, or place, to answer to the said information or complaint, and to be further dealt with according to law; and it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and

Execution of warrant.

such warrant may be executed by apprehending the defendant at any place within the county, riding, division, liberty, city, borough or place within which the justices issuing the same shall have jurisdiction, or in case of fresh pursuit at any place in the next adjoining county or place, within seven miles of the border of such first-mentioned county, riding, division, liberty, city, borough, or place, without having such warrant backed as herein-after mentioned; and in all cases where such warrant shall be directed to all constables or peace officers within the county or other district within which the justice or justices issuing the same shall have jurisdiction, it shall be lawful for any constable, headborough, tithingman, borsholder, or other peace officer for any parish, township, hamlet or place, situate within the limits of the jurisdiction for which such justice or justices shall have acted when he or they granted such warrant, to execute such warrant in like manner as if such warrant were directed specially to such constable by name, and notwithstanding that the place in which such warrant shall be executed shall not be within the parish, township, hamlet, or place for which he shall be such constable, headborough, tithingman, borsholder, or other peace officer; and such of the provisions

Sect. 3.

Certain provisions of 11 & 12 Vict. c. 42, as to backing of warrants to extend to warrants issued under this Act.

and enactments contained in the Indictable Offences Act, 1848, as to the backing of any warrant, and the indorsement thereon by a justice of the peace or other officer, authorizing the person bringing such warrant, and all other persons to whom the same was originally directed, to execute the same within the jurisdiction of the justice or officer so making such indorsement, as are applicable to the provisions of this Act, shall extend to all such warrants, and to all warrants of commitment issued under and by virtue of this Act, in as full and ample a manner as if the said several provisions and enactments were here repeated and made parts of this Act: Provided always that no objection shall be taken or allowed to any such warrant to apprehend a defendant so issued upon any such information or complaint as aforesaid under or by virtue of this Act, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the informant or complainant, as herein-after mentioned; but if any such variance shall appear to the justice or justices present and acting at such hearing to be such that the party so apprehended under such warrant has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the said defendant to the house of correction or other prison, lock-up house, or place of security, or to such other custody as the said justice or justices shall think fit, or to discharge him upon his entering into a recognizance with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always, that in all cases where a defendant shall be discharged upon recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said justice who shall have taken the said recognizance, or any justice or justices who may then be there present, upon certifying on the back of the said recognizance the non-appearance of the defendant may transmit such recognizance to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of such non-appearance of the said defendant.

Objections to warrants for want of form or variance from evidence.

Description of property in informations.

IV. In any information or complaint, or the proceedings thereon, in which it shall be necessary to state the ownership

Sect. 4.

Note.

Special provision is made in the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 7, for describing the property of guardians in all legal proceedings.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103),

Sect. 4.

of any property belonging to or in the possession of partners, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another or others, as the case may be; and whenever in any information or complaint, or the proceedings thereon, it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in manner aforesaid; and whenever in any such information or complaint, or the proceedings thereon, it shall be necessary to describe the ownership of any work or building made, maintained, or repaired at the expense of any county, riding, division, liberty, city, borough, or place, or of any materials for the making, altering, or repairing of the same, they may be therein described as the property of the inhabitants of such county, riding, division, liberty, city, borough, or place respectively; and all goods provided by parish officers for the use of the poor may in any such information or complaint, or the proceedings thereon, be described as the goods of the churchwardens and overseers of the poor of the parish, or of the overseers of the poor of the township or hamlet, or of the guardians of the poor of the union, to which the same belong, without naming any of them; and all materials and tools provided for the repair of highways at the expense of parishes or other districts in which such highways may be situate may be therein described as the property of the surveyor or surveyors of such highways respectively, without naming him or them; . . . and all property of the commissioners of sewers of any district may be described as the property of such commissioners, without naming them.

Aiders and abettors.

V. Every person who shall aid, abet, counsel, or procure the commission of any offence which is or hereafter shall be punishable on summary conviction shall be liable to be proceeded against and convicted for the same, either together with the principal offender, or before or after his conviction, and shall be liable on conviction to the same forfeiture and punishment as such principal offender is or shall be by law liable, and may be proceeded against and convicted either in the county, riding, division, liberty, city, borough, or place where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling, or procuring may have been committed.

Sect. 4. Note.

s. 15, it is sufficient in any criminal proceeding to describe the property or money of a parish which may be embezzled or stolen by an assistant overseer or collector, as the property or money of the inhabitants of such parish without specifying the names. And in *Reg.* v. *Smallman*, [1897] 1 Q. B. 4; 66 L. J. Q. B. 82; 75 L. T. 394, that enactment was held to apply to the case of an assistant overseer appointed by a parish council.

Sect. 6.

Provisions of 11 & 12 Vict. c. 42, as to justices of one county, &c. acting for the same while in another, &c. to extend to this Act.

VI. Such of the provisions and enactments in the Indictable Offences Act, 1848, whereby a justice of the peace for one county, riding, division, liberty, city, borough, or place may act for the same whilst residing or being in an adjoining county, riding, division, liberty, city, borough, or place, of which he is also a justice of the peace, or whereby a justice of the peace for any county at large, riding, division, or liberty may act as such within any city, town, or precinct next adjoining thereto or surrounded thereby, being a county of itself or otherwise having exclusive jurisdiction, as are applicable to the provisions of this Act, shall be deemed to be incorporated into this Act, and to extend to all acts required of or to be performed by justices of the peace under or by virtue of this Act, in as full and ample a manner as if the said provisions and enactments were here repeated and made parts of this Act.

Powers of obtaining attendance of witnesses.

VII. If it shall be made to appear to any justice of the peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such justice is likely to give material evidence in behalf of the prosecutor or complainant or defendant, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such information or complaint, such justice may and is hereby required to issue his summons to such person under his hand and seal, requiring him to be and appear at a time and place mentioned in such summons before the said justice, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify what he shall know concerning the matter of the said information or complaint; and

Sect. 6.

Note.

As to jurisdiction in respect of matters arising within a union, see note to sect. 1, *supra*.

As to offences in workhouses, the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 57, provides that offenders brought before justices and convicted may be committed to the gaol of the place to which such offenders belong, although such justices are not justices having jurisdiction in the place in which the prison, or the workhouse where the offence was committed, is situate. And by the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 9, a person chargeable to the common fund of a union, and convicted of any offence committed in a workhouse, may be committed by any justice before whom he is charged and convicted to the gaol of the county or place which contains the major part of the union to which such person is chargeable.

By 26 & 27 Vict. c. 77, s. 1, sect. 35 of this Act is not to apply to or control this section, which is to be construed as if the sect. 35 were not and never had been contained in this Act.

Sect. 7.

Note.

Special provisions are contained in the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 70, for procuring the attendance before justices of persons chargeable, or of witnesses in any proceedings under the Poor Law Acts.

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if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such summons having been served upon such person, either personally, or by leaving the same for him with some person at his last or most usual place of abode, and that a reasonable sum was paid or tendered to him for his costs and expenses in that behalf,) it shall be lawful for the justice or justices before whom such person should have appeared to issue a warrant under his or their hands and seals to bring and have such person, at a time and place to be therein mentioned, before the justice who issued the said summons, or before such other justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place as shall then be there, to testify as aforesaid, and which said warrant may, if necessary, be backed as herein-before is mentioned, in order to its being executed out of the jurisdiction of the justice who shall have issued the same; or if such justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence without being compelled so to do, then, instead of issuing such summons, it shall be lawful for him to issue his warrant in the first instance, and which, if necessary, may be backed as aforesaid; and if on the appearance of such person so summoned before the said last-mentioned justice or justices, either in obedience to the said summons or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or, having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any justice of the peace then present, and having there jurisdiction, may by warrant under his hand and seal commit the person so refusing to the common gaol or house of correction for the county, riding, division, liberty, city, borough, or place where such person so refusing shall then be, there to remain and be imprisoned for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

Complaints not required to be in writing.

VIII. In all cases of complaints upon which a justice or justices of the peace may make an order for the payment of money or otherwise it shall not be necessary that such complaint shall be in writing, unless it shall be required to be so by some particular Act of Parliament upon which such complaint shall be framed.

Variances between informations.

IX. In all cases of informations for any offences or acts punishable upon summary conviction any variance between such information and the evidence adduced in support thereof

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as to the time at which such offence or act shall be alleged to have been committed shall not be deemed material, if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between such information and the evidence adduced in support thereof as to the parish or township in which the offence or act shall be alleged to have been committed shall not be deemed material, provided that the offence or act be proved to have been committed within the jurisdiction of the justice or justices by whom such information shall be heard and determined; and if any such variance, or any variance in any other respect between such information and the evidence adduced in support thereof, shall appear to the justice or justices present and acting at the hearing to be such that the party charged by such information has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the said defendant to the house of correction or other prison, lock-up house, or place of security, or to such other custody as the justice or justices shall think fit, or to discharge him upon his entering into a recognizance, with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned.

Complaints and informations not required to be on oath.

X. Every such complaint upon which the justice or justices of the peace is or are or shall be authorized by law to make an order, and every information for any offence or act punishable upon summary conviction, unless some particular Act of Parliament shall otherwise require, may respectively be made or laid without any oath or affirmation being made of the truth thereof, except in cases of informations where the justice or justices receiving the same shall thereupon issue his or their warrant in the first instance to apprehend the defendant as aforesaid; and in every such case where the justice or justices shall issue his or their warrant in the first instance the matter of such information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before any such warrant shall be issued; and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint; and every such information shall be for one offence only, and not for two or more offences; and every such complaint or information may be laid or made by the complainant or informant in person, or by his counsel or attorney or other person authorized in that behalf.

Complaints, &c. to be for one matter only.

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Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c 101), s. 68 (the provisions of which are preserved by a saving clause in 23 & 24 Vict. c. 127, s. 33), the clerk or other officer of the guardians, if duly empowered by the board, may take any proceedings before justices on behalf of the board.

Sect. 11. Limitation of prosecution.

XI. In all cases where no time is already or shall hereafter be specially limited for making any such complaint or laying any such information in the Act or Acts of Parliament relating to each particular case, such complaint shall be made and such information shall be laid within six calendar months from the time when the matter of such complaint or information respectively arose.

Constitution of court and rights of parties to counsel, &c.

XII. Every such complaint and information shall be heard, tried, determined, and adjudged by one or two or more justice or justices of the peace, as shall be directed by the Act of Parliament upon which such complaint or information shall be framed, or such other Act or Acts of Parliament as there may be in that behalf; [and if there be no such direction in any such Act of Parliament, then such complaint or information may be heard, tried, determined, and adjudged by any one justice of the peace for the county, riding, division, liberty, city, borough, or place where the matter of such information shall have arisen;] and the room or place in which such justice or justices shall sit to hear and try any such complaint or information shall be deemed an open and public court, to which the

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Sect. 11. Note.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 9, nothing in this section shall be deemed to apply to any proceeding by any auditor under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32; and a special period of limitation of nine months is fixed for taking proceedings by auditors.

Although this Act does not apply to recovery of poor rates (*Reg.* v. *Price*, 5 Q. B. D. 300; 49 L. J. M. C. 49; 42 L. T. 439; 28 W. R. 615; 44 J. P. 248), it has been held that this section applies to an order of justices made for the payment of expenses of the maintenance of a pauper upon an order of removal, so that an application for an order to enforce them must be made within six calendar months of the time when demanded (*Collumpton* v. *Brighton*, 3 L. T. (N. S.) 318; S. C. *Hill* v. *Thorncroft*, 7 Jur. 163; 24 J. P. 741).

To constitute the offence of desertion under the Vagrancy Act, 1824 (5 Geo. 4, c. 83), s. 4, there must be a chargeability of the wife or children consequent on the running away. And the offence is not completed until they become chargeable; therefore, if the information be laid within six months of the chargeability, it is sufficient under this section (*Reeves* v. *Yates*, 1 H. & C. 435; 31 L. J. M. C. 241; 1 Jur. 751; 10 W. R. 779).

A commitment under 11 & 12 Vict. c. 62, s. 39 (now replaced by sect. 196 of the Public Health Act, 1875), of an overseer and collector of borough rates for non-delivery of a rate-book in his possession by virtue of his office of overseer and collector, is a civil and not a criminal proceeding, and the limitation of six months in this section does not apply (*Meyer* v. *Harding*, 9 B. & S. 27; 17 L. T. (N. S.) 140; 31 J. P. 740).

Sect. 12. Note.

The words within brackets are repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4, so far as they relate to a case under the S. J. Acts or any future Acts.

public generally may have access, so far as the same can conveniently contain them; and the party against whom such complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf; and every complainant or informant in any such case shall be at liberty to conduct such complaint or information respectively and to have the witnesses examined and cross-examined by counsel or attorney on his behalf.

Procedure in case of absence of complainant or defendant.

XIII. If at the day and place appointed in and by the summons aforesaid for hearing and determining such complaint or information the defendant against whom the same shall have been made or laid shall not appear when called, the constable or other person who shall have served him with the summons in that behalf shall then declare upon oath in what manner he served the said summons; and if it appear to the satisfaction of any justice or justices that he duly served the said summons, in that case such justice or justices may proceed to hear and determine the case in the absence of such defendant, or the said justice or justices, upon the non-appearance of such defendant as aforesaid, may, if he or they think fit, issue his or their warrant in manner herein-before directed, and shall adjourn the hearing of the said complaint or information until the said defendant shall be apprehended; and when such defendant shall afterwards be apprehended under such warrant he shall be brought before the same justice or justices, or some other justice or justices of the same county, riding, division, liberty, city, borough, or place, who shall thereupon, either by his or their warrant commit such defendant to the house of correction or other prison, lock-up house, or place of security, or, if he or they think fit, verbally to the custody of the constable or other person who shall have apprehended him, or to such other safe custody as he or they shall deem fit, and order the said defendant to be brought up at a certain time and place before such justice or justices of the peace as shall then be there, of which said order the complainant or informant shall have due notice; or if upon the day and at the place so appointed as aforesaid such defendant shall attend voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the said justice or justices by virtue of any warrant, then, if the complainant or informant, having had such notice as aforesaid, do not appear, by himself, his counsel or attorney, the said justice or justices shall dismiss such complaint or information, unless for some reason he or they shall think proper to adjourn the hearing of the same unto some other day, upon such terms as he or they shall think fit, in which case such justice or justices may commit the defendant in the meantime to the house of correction or other prison, lock-up house or place of security, or to such other custody as such justice or justices shall think fit, or may discharge him upon

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his entering into a recognizance with or without surety or sureties, at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned ; . . . but if both parties appear, either personally or by their respective counsel or attornies, before the justice or justices who are to hear and determine such complaint or information, then the said justice or justices shall proceed to hear and determine the same.

Proceedings at the hearing.

XIV. Where such defendant shall be present at such hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he have any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be ; and if he thereupon admit the truth of such information or complaint, and show no cause or no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, then the justice or justices present at the said hearing shall convict him or make an order against him accordingly ; but if he do not admit the truth of such information or complaint as aforesaid, then the said justice or justices shall proceed to hear the prosecutor or complainant, and such witnesses as he may examine and such other evidence as he may adduce, in support of his information or complaint respectively, and also to hear the defendant and such witnesses as he may examine and such other evidence as he may adduce in his defence, and also to hear such witnesses as the prosecutor or complainant may examine in reply, if such defendant shall have examined any witnesses or given any evidence other than as to his the defendant's general character ; but the prosecutor or complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply as aforesaid ; and the said justice or justices, having heard what each party shall have to say as aforesaid, and the witnesses and evidence so adduced, shall consider the whole matter, and determine the same, and shall convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be ; and if he or they convict or make an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction or order shall afterwards be drawn up by the said justice or justices in proper form, under his or their hand and seal or hands and seals, and he or they shall cause the same to be lodged with the clerk of the peace, to be by him filed among the records of the general quarter sessions of the peace ; or if the said justice or justices shall dismiss such information or complaint, it shall be lawful for such justice or justices, if he or they shall think fit, being required so to do, to make an order of dismissal of the same, and shall give the defendant in that behalf a certificate thereof,

which said certificate afterwards, upon being produced, without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively against the same party : Provided always, that if the information or complaint in any such case shall negative any exemption, exception, proviso, or condition in the statute on which the same shall be framed, it shall not be necessary for the prosecutor or complainant in that behalf to prove such negative, but the defendant may prove the affirmative thereof in his defence, if he would have advantage of the same. Sect. 14.

XV. . . . every witness at any such hearing as aforesaid shall be examined upon oath or affirmation, and the justice or justices before whom any such witness shall appear for the purpose of being so examined shall have full power and authority to administer to every such witness the usual oath or affirmation. Examination of witnesses upon oath.

XVI. Before or during such hearing of any such information or complaint it shall be lawful for any one justice, or for the justices, in their discretion, to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or their respective attornies or agents then present, and in the meantime the said justice or justices may suffer the defendant to go at large, or may commit him to the common gaol or house of correction, or other prison, lock-up house, or place of security, in the county, riding, division, liberty, city, borough, or place for which such justice or justices shall be then acting or to such other safe custody as the said justice or justices shall think fit, or may discharge such defendant upon his entering into a recognizance with or without surety or sureties at the discretion of such justice or justices, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned ; and if at the time or place to which such hearing or further hearing shall be so adjourned either or both of the parties shall not appear personally, or by his or their counsel or attornies respectively, before the said justice or justices, or such other justice or justices as shall then be there, it shall be lawful for the justice or justices then there present to proceed to such hearing or further hearing as if such party or parties were present ; or if the prosecutor or complainant shall not appear, the said justice or justices may dismiss such information or complaint, with or without costs, as to such justices shall seem fit . . . Adjournment of hearing.

XVII. In all cases of conviction where no particular form of such conviction is or shall be given by the statute creating the Forms of convictions and orders.

So much of this section as specifies any form of conviction or order for which another form is provided by a Rule under the S. J. Acts, is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4. Sect. 17. Note.

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offence or regulating the prosecution for the same, and in all cases of conviction upon statutes hitherto passed, whether any particular form of conviction have been therein given or not, it shall be lawful for the justice or justices who shall so convict to draw up his or their conviction on parchment or on paper in such one of the forms of conviction in the schedule to this Act contained as shall be applicable to such case, or to the like effect; and where an order shall be made and no particular form of order is or shall be given by the statute giving authority to make such order, and in all cases of orders to be made under the authority of any statutes hitherto passed, whether any particular form of order shall therein be given or not, it shall be lawful for the justice or justices by whom such order is to be made to draw up the same in such one of the forms of orders in the schedule to this Act contained as may be applicable to such case, or to the like effect; and in all cases where by any Act of Parliament authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying any order of a justice or justices, the defendant shall be served with a copy of the minute of such order before any warrant of commitment or of distress shall issue in that behalf, and such order or minute shall not form any part of such warrant of commitment or of distress.

Defendant to be served with minute of order before issue of warrant of commitment or distress.

Award of costs to complainant or defendant.

XVIII. In all cases of summary conviction or of orders made by a justice or justices of the peace it shall be lawful for the justice or justices making the same, in his or their discretion, to award and order in and by such conviction or order that the defendant shall pay to the prosecutor or complainant respectively such costs as to such justice or justices shall seem just and reasonable in that behalf; and in cases where such justice or justices, instead of convicting or making an order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them, in his or their discretion, in and by his or their order of dismissal to award and order that the prosecutor or complainant respectively shall pay to the defendant such costs as to such justice or justices shall seem just and reasonable; and the sums so allowed for costs shall in all cases be specified in such conviction or order or order of dismissal aforesaid, and the same shall be recoverable in the same manner and under the same warrants as any penalty or sum of money adjudged to be paid in and by such conviction or order is to be recoverable; and in cases where there is no such penalty or sum to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress by imprisonment, with or without hard labour, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

Warrant of distress for

XIX. Where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the

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recovery of penalty or sum of money.

payment of a sum of money, and by the statute authorizing such conviction or order such penalty, compensation, or sum of money is to be levied upon the goods and chattels of the defendant by distress and sale thereof, and also in cases where by the statute in that behalf no mode of raising or levying such penalty, compensation, or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the justice or justices making such conviction or order, or for any justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of distress for the purpose of levying the same, which said warrant of distress shall be in writing under the hand and seal of the justice making the same; and if after delivery of such warrant of distress to the constable or constables to whom the same shall have been directed to be executed sufficient distress shall not be found within the limits of the jurisdiction of the justice granting such warrant, then, upon proof alone being made on oath of the handwriting of the justice granting such warrant before any justice of any other county or place, such justice of such other county or place shall thereupon make an indorsement on such warrant, signed with his hand, authorizing the execution of such warrant within the limits of his jurisdiction; by virtue of which said warrant and indorsement the penalty or sum aforesaid, and costs, or so much thereof as may not have been before levied or paid, shall and may be levied by the person bringing such warrant, or by the person or persons to whom such warrant was originally directed, or by any constable or other peace officer of such last-mentioned county or place, by distress and sale of the goods and chattels of the defendant in such other county or place: . . .

Where warrant of distress issued, defendant may be set at large or detained in default of security.

XX. In all cases where a justice of the peace shall issue any such warrant of distress it shall be lawful for him to suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, to order the defendant to be kept and detained in safe custody until return shall be made to such warrant of distress, unless such defendant shall give sufficient security, by recognizance or otherwise, to the satisfaction of such justice, for his appearance before him at the time and place appointed for the return of such warrant of distress, or before such other justice or justices for the same county, riding, division, liberty, city, borough, or place as may then be there: . . .

In default of distress defendant may be committed.

XXI. If at the time and place appointed for the return of any such warrant of distress the constable who shall have had the execution of the same shall return that he could find no goods or chattels, or no sufficient goods or chattels, whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levying of the same, it shall be lawful for the justice of the peace before whom the same shall be returned to issue his warrant of commitment under his hand

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and seal, directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring such constable to convey such defendant to the house of correction, or if there be no house of correction then to the common gaol of the county, riding, division, liberty, city, borough, or place for which such justice shall then be acting, and there to deliver him to the keeper thereof, and requiring such keeper to receive the defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour, in such manner and for such time as shall have been directed and appointed by the statute on which the conviction or order mentioned in such warrant of distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice shall think fit so to order, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

Where the statute provides no remedy in default of distress defendant may be committed.

XXII. And whereas by some Acts of Parliament justices of the peace are authorized to issue warrants of distress to levy penalties or other sums recovered before them by distress and sale of the offender's goods, but no further remedy is thereby provided in case no sufficient distress be found whereon to levy such penalties: Be it therefore enacted, that in all such cases, and in all cases of convictions or orders where the statute on which the same are respectively founded provides no remedy in case it shall be returned to a warrant of distress thereon that no sufficient goods of the party against whom such warrant shall have been issued can be found, it shall nevertheless be lawful for the justice to whom such return is made, or to any other justice of the peace for the same county, riding, division, liberty, city, borough, or place, if he or they shall think fit, by his warrant as aforesaid to commit the defendant to the house of correction or common gaol as aforesaid for any term not exceeding three calendar months, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and of the commitment and conveying of the defendant to prison, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

Provision where the statute does not direct levy by distress, but directs commitment in case of non-payment.

XXIII. In all cases where the statute by virtue of which a conviction for a penalty or compensation or an order for the payment of money is made makes no provision for such penalty or compensation or sum being levied by distress, but directs that if the same be not paid forthwith, or within a certain time therein mentioned, or to be mentioned in such conviction or order, the defendant shall be imprisoned, or imprisoned and kept to hard labour, for a certain time, unless such penalty, compensation, or sum shall be sooner paid, in every such case such penalty, compensation, or sum shall not be levied by

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distress; but if the defendant do not pay the same, together with costs, if awarded, forthwith, or at the time specified in such conviction or order for the payment of the same, it shall be lawful for the justice or justices making such conviction or order, or for any other justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of commitment under his or their hand and seal or hands and seals, requiring the constable or constables to whom the same shall be directed to take and convey such defendant to the house of correction or common gaol for the county, riding, division, liberty, city, borough, or place aforesaid, as the case may be, and there to deliver him to the keeper thereof, and requiring such keeper to receive such defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the statute on which such conviction or order is founded as aforesaid shall direct, unless the sum or sums adjudged to be paid, and also the costs and charges of taking and conveying the defendant to prison, if such justice or justices shall think fit so to alter, shall be sooner paid.

Provision where the conviction orders imprisonment and not payment of a penalty, or where order is not for payment of money, but that some act shall be done and for imprisonment in case of default.

XXIV. Where a conviction does not order the payment of any penalty, but that the defendant be imprisoned, or imprisoned and kept to hard labour, for his offence, or where an order is not for the payment of money, but for the doing of some other act, and directs that in case of the defendant's neglect or refusal to do such act he shall be imprisoned, or imprisoned and kept to hard labour, and the defendant neglects or refuses to do such act, in every such case it shall be lawful for such justice or justices making such conviction or order, or for some other justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of commitment under his or their hand and seal or hands and seals, and requiring the constable or constables to whom the same shall be directed to take and convey such defendant to the house of correction or common gaol for the same county, riding, division, liberty, city, borough, or place, as the case may be, and there to deliver him to the keeper thereof, and requiring such keeper to receive such defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the statute on which such conviction or order is founded as aforesaid shall direct; and in all such cases, where by such conviction or order any sum for costs shall be adjudged to be paid by the defendant to the prosecutor or complainant, such sum may, if the justice or justices shall think fit, be levied by warrant of distress in manner aforesaid, and in default of distress the defendant may, if such justice or justices shall think fit, be committed to the same house of correction or common gaol in manner aforesaid, there to be imprisoned for any time not exceeding one calendar month, to commence at the termination of the imprisonment he shall then

Levy of distress for costs.

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be undergoing, unless such sum for costs, and all costs and charges of the said distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice or justices shall think fit so to order, shall be sooner paid.

Provision where defendant already in prison for another offence.

XXV. Where a justice or justices of the peace shall upon any such information or complaint as aforesaid adjudge the defendant to be imprisoned, and such defendant shall then be in prison undergoing imprisonment upon a conviction for any other offence, the warrant of commitment for such subsequent offence shall in every such case be forthwith delivered to the gaoler to whom the same shall be directed; and it shall be lawful for the justice or justices issuing the same, if he or they shall think fit, to award and order therein and thereby that the imprisonment for such subsequent offence shall commence at the expiration of the imprisonment to which such defendant shall have been previously adjudged or sentenced.

Where costs recoverable from prosecutor.

XXVI. Where any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be awarded for costs in the order for dismissal may be levied by distress on the goods and chattels of the prosecutor or complainant in manner aforesaid; and in default of distress or payment such prosecutor or complainant may be committed to the house of correction or common gaol in manner aforesaid, for any time not exceeding one calendar month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such prosecutor or complainant to prison, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

Execution after decision of appeal.

XXVII. After an appeal against any such conviction or order as aforesaid shall be decided, if the same shall be decided in favour of the respondents, the justice or justices who made such conviction or order, or any other justice of the peace of the same county, riding, division, liberty, city, borough, or place, may issue such warrant of distress or commitment as aforesaid for execution of the same, as if no such appeal had been brought; and if upon any such appeal the court of quarter sessions shall order either party to pay costs, such order shall direct such costs to be paid to the clerk of the peace of such court, to be

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Note.

The provisions at the end of this section as to committal in default of distress appear to be repealed by the S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 55, as being inconsistent with that Act.

Nothing in this section affects the power of quarter sessions upon an appeal against a poor rate to order costs to be paid to the party in whose favour the appeal is decided under the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4 (*Reg.* v. *Huntley*, 3 E. & B. 172; 23 L. J. M. C. 106; 18 Jur. 745).

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by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid; and if the same shall not be paid within the time so limited, and the party ordered to pay the same shall not be bound by any recognizance conditioned to pay such costs, such clerk of the peace or his deputy, upon application of the party entitled to such costs, or of any person on his behalf, and on payment of a fee of one shilling, shall grant to the party so applying a certificate that such costs have not been paid, and upon production of such certificate to any justice or justices of the peace for the same county, riding, division, liberty, city, borough, or place, it shall be lawful for him or them to enforce the payment of such costs by warrant of distress in manner aforesaid, and in default of distress he or they may commit the party against whom such warrant shall have issued, in manner herein-before mentioned, for any time not exceeding three calendar months, unless the amount of such costs, and all costs and charges of the distress, and also the costs of the commitment and conveying of the said party to prison, if such justice or justices shall think fit so to order, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

Payment of penalty.

XXVIII. In all cases where any person against whom a warrant of distress shall issue as aforesaid shall pay or tender to the constable having the execution of the same the sum or sums in such warrant mentioned, together with the amount of the expenses of such distress up to the time of such payment or tender, such constable shall cease to execute the same; and in all cases in which any person shall be imprisoned as aforesaid for non-payment of any penalty or other sum he may pay or cause to be paid to the keeper of the prison in which he shall be so imprisoned the sum in the warrant of commitment mentioned, together with the amount of the costs, charges, and expenses (if any) therein also mentioned, and the said keeper shall receive the same, and shall thereupon discharge such person, if he be in his custody for no other matter.

Acts which may be done by one justice.

XXIX. In all cases of summary proceedings before a justice or justices of the peace out of sessions upon any information or complaint as aforesaid it shall be lawful for one justice to receive such information or complaint, and to grant a summons or warrant thereon, and to issue his summons or warrant to compel the attendance of any witnesses, and to do all other necessary acts and matters preliminary to the hearing, even in cases where by the statute in that behalf such information or complaint must be heard and determined by two or more justices; and after the case shall have been so heard and determined one justice may issue all warrants of distress or commitment thereon; and it shall not be necessary that the justice who so acts before or after such hearing shall be the

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justice or one of the justices by whom the said case shall be heard and determined: Provided always, that in all cases where by statute it is or shall be required that any such information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices, such justices must be present and acting together during the whole of the hearing and determination of the case.

Fees of clerks of the peace.

XXX. The fees to which any clerk of the peace . . . shall be entitled shall be ascertained, appointed, and regulated in manner following (that is to say), the justices of the peace at their quarter sessions for the several counties, ridings, divisions, of counties, and liberties, throughout England and Wales, and the council or other governing body of every borough in England and Wales, shall from time to time, as they shall see fit respectively, make tables of the fees which in their opinion should be paid to the clerks of the peace . . . within their several jurisdictions, and which said tables respectively, being signed by the chairman of every such court of quarter sessions, or by the mayor or other head officer of any such borough respectively, shall be laid before Her Majesty's principal Secretary of State; and it shall be lawful for such Secretary of State, if he thinks fit, to alter such table or tables of fees, and to subscribe a certificate or declaration that such fees are proper to be demanded and received by the several clerks of the peace, . . . throughout England and Wales; and such Secretary of State shall cause copies of such table or set of tables of fees to be transmitted to the several clerks of the peace throughout England and Wales, . . . and if after such copy shall be received by such clerk or clerks he or they shall demand or receive any other or greater fee or gratuity for any business or act transacted or done by him as such clerk than such as is set down in such table or set of tables, he shall forfeit for every such demand or receipt the sum of twenty pounds, to be recovered by action of debt in any of the superior Courts of Law at Westminster, by any person who will sue for the same: Provided always, that until such table or set of tables shall be framed and confirmed and distributed as aforesaid it shall be lawful for such clerk or clerks to demand and receive such fees as they are now, by any rule or regulation of a court of quarter sessions, or otherwise, authorized to demand and receive.

Penalty on clerks taking other fees than those allowed.

Regulations as to payment, &c. of penalties, &c.

XXXI. In every warrant of distress to be issued as aforesaid the constable or other person to whom the same shall be directed shall be thereby ordered to pay the amount of the sum to be levied thereunder unto the clerk of the division in which the justice or justices issuing such warrant shall usually act; and if any person convicted of any penalty, or ordered by a justice or justices of the peace to pay any sum of money, shall pay the same to any constable or other person, such constable or other

person shall forthwith pay the same to such clerk; and if any person committed to prison upon any conviction or order as aforesaid for non-payment of any penalty, or of any sum thereby ordered to be paid, shall desire to pay the same and costs before the expiration of the time for which he shall be so ordered to be imprisoned by the warrant for his commitment, he shall pay the same to the gaoler or keeper of the prison in which he shall be so imprisoned, and such gaoler or keeper shall forthwith pay the same to the said clerk; and all sums so received by the said clerk shall forthwith be paid by him to the party or parties to whom the same respectively are to be paid, according to the directions of the statute on which the information or complaint in that behalf shall have been framed; and if such statute shall contain no such directions for the payment thereof to any person or persons, then such clerk shall pay the same to the treasurer of the county, riding, division, liberty, city, borough, or place for which such justice or justices shall have acted, and for which such treasurer shall give him a receipt without stamp; and every such clerk, and every such gaoler or keeper of a prison, shall keep a true and exact account of all such monies received by him, of whom and when received, and to whom and when paid, . . . and shall once in every month render a fair copy of every such account unto the justices who shall be assembled at the petty sessions for the division in which such justice or justices aforesaid shall usually act, to be holden on or next after the first day of every month, under the penalty of forty shillings, to be recovered by distress in manner aforesaid; and the said clerk shall send or deliver every return so made by him as aforesaid to the clerk of the peace for the county, riding, division, liberty, city, borough, or place within which such division shall be situate, at such times as the court of quarter sessions for the same shall order in that behalf.

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Accounts and returns.

[Sect. 32. Repealed by the S. L. R. Act, 1891.]

XXXIII. Any one of the magistrates appointed or hereafter to be appointed to act at any of the police courts of the metropolis and sitting at a police court within the metropolitan police district, and every stipendiary magistrate appointed or to be appointed for any other city, town, liberty, borough, or place, and sitting at a police court or other place appointed in that behalf, shall have full power to do alone whatsoever is authorized by this Act to be done by any one or more justice or justices of the peace; and the several forms herein-after mentioned may be varied, so far as it may be necessary to render them applicable to the police courts aforesaid, or to the court or other place of sitting of such stipendiary magistrate; and nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in the Metropolitan Police Act, 1829, or in the Metropolitan Police Act, 1839, or in the Metropolitan Police Courts Act, 1839, or in an Act

Metropolitan police magistrates, and stipendiary magistrates may act alone.

10 Geo. 4, c. 44.
2 & 3 Vict. c. 47.
2 & 3 Vict. c. 71.

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3 & 4 Vict. c. 84.

passed in the fourth year of the reign of Her present Majesty, intituled "An Act for better defining the powers of Justices within the Metropolitan Police District."

Lord Mayor, or alderman of London, may act alone.

XXXIV. It shall be lawful for the Lord Mayor of the City of London, or for any alderman of the said city, for the time being, sitting at the Mansion House or Guildhall justice rooms in the said city, to do alone any act, at either of the said justice rooms, which by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice; and nothing in this Act contained shall alter or affect in any manner whatsoever any of the powers, provisions, or enactments contained in an Act passed in the third year of the reign of Her present Majesty, intituled "An Act for regulating the Police in the City of London."

2 & Vict. cap. xciv.

To what proceeding this Act shall not extend.

XXXV. Nothing in this Act shall extend or be construed to extend to any warrant or order for the removal of any poor person who is or shall become chargeable to any parish, township, or place; nor to any complaints or orders made with respect to lunatics, or the expenses incurred for the lodging, maintenance, medicine, clothing, or care of any lunatic or insane person; . . . nor shall anything in this Act extend or be construed to extend to any complaints, orders, or warrants in matters of bastardy made against the putative father of any bastard child, save and except such of the provisions aforesaid as relate to the backing of warrants for compelling the appearance of such putative father or warrants of distress, or to the levying of sums ordered to be paid, or to the imprisonment of a defendant for non-payment of the same; . . .

[Sect. 36. *Repealing obsolete statutes:* Repealed by the S. L. R. Act, 1875.]

Extent of Act and saving.

XXXVII. The town of Berwick-upon-Tweed shall be deemed to be within England for all the purposes of this Act; but nothing in this Act shall extend or be construed to extend to Scotland or Ireland, or to the Isles of Man, Jersey, Guernsey, Alderney, or Sark, save and except the several provisions respecting the backing of warrants contained in the Indictable Offences Act, 1848, and incorporated into this Act as aforesaid.

11 & 12 Vict. c. 42.

[Sects. 38, 39. Repealed by the S. L. R. Act, 1875. Schedule repealed by the S. L. R. Act, 1891 (see Forms substituted by Summary Jurisdiction Rules, 1886).]

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Note.

See note to sect. 6, *supra*.

JUSTICES PROTECTION ACT, 1848.

11 & 12 VICT. CHAP. 44.

An Act to protect Justices of the Peace from Vexatious Actions for acts done by them in execution of their office.

[14th August, 1848.]

[Only so much of this Act is annotated as relates to the protection of justices acting in poor law matters.]

[*Preamble.*]

An action against a justice for an act within his jurisdiction shall be on the case, as for a tort.

[I.] Every action hereafter to be brought against any justice of the peace for any act done by him in the execution of his duty as such justice, with respect to any matter within his jurisdiction as such justice, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done maliciously, and without reasonable and probable cause; and if at the trial of any such action, upon the general issue being pleaded, the plaintiff shall fail to prove such allegation, he shall be non-suit, or a verdict shall be given for the defendant.

Acts of justices for which action may be maintained.

II. For any act done by a justice of the peace in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued by such justice in any such matter, may maintain an action against such justice in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration that the act complained of was done maliciously, and without reasonable and probable cause: Provided nevertheless, that no such action shall be brought for any thing done under such conviction or order until after such conviction shall have been quashed, either upon appeal, or upon application to Her Majesty's Court of Queen's Bench; nor shall any such action be brought for any thing done under any such warrant which shall have been issued by such justice to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid; or if such last-mentioned warrant shall not have been followed by any such conviction or order, or if it be a warrant upon an information for an alleged indictable offence, nevertheless if a summons were issued previously to such warrant, and such summons were served upon such person, either personally, or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of

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such summons, in such case no such action shall be maintained against such justice for any thing done under such warrant.

Provision where one justice makes a conviction or order, and another grants a warrant.

III. Where a conviction or order shall be made by one or more justice or justices of the peace, and a warrant of distress or of commitment shall be granted thereon by some other justice of the peace *bonâ fide* and without collusion, no action shall be brought against the justice who so granted such warrant by reason of any defect in such conviction or order, or for any want of jurisdiction in the justice or justices who made the same, but the action (if any) shall be brought against the justice or justices who made such conviction or order.

Provision where distress warrant issued for poor rate.

Exercise of discretionary power by justice.

IV. Where any poor rate shall be made, allowed, and published, and a warrant of distress shall issue against any person named and rated therein, no action shall be brought against the justice or justices who shall have granted such warrant by reason of any irregularity or defect in the said rate, or by reason of such person not being liable to be rated therein; and in all cases where a discretionary power shall be given to a justice of the peace by any Act or Acts of Parliament, no action shall be brought against such justice for or by reason of the manner in which he shall have exercised his discretion in the execution of any such power.

Where justice acts under

V. [*Recital.*] In all cases where a justice or justices of the peace shall refuse to do any act relating to the duties of his or

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Note.

Formerly justices often refused to grant a distress warrant for a poor rate, as it might possibly subject them to an action of trespass. Where a person was rated in the parish of A. for lands that were really situate in the parish of B., and being distrained upon brought an action of trespass against the justices who signed the distress warrant: the court held that the action well lay; for as the plaintiff had no rateable property in the parish, the justices had no jurisdiction to grant the distress warrant (*Weaver* v. *Price*, 3 B. & Ad. 409). And for this reason it was, that the Court of Queen's Bench formerly would not grant a *mandamus* to justices commanding them to grant a distress warrant for a poor rate, where there was any feasible doubt of the validity of the rate, or liability to the party (*Rex* v. *Newcomb*, 4 T. R. 368). It was therefore provided by 6 & 7 Vict. c. 67, s. 3 (now repealed by 46 & 47 Vict. c. 49), that no action should be brought against any person for or by reason of anything done in obedience to any peremptory *mandamus*, and now justices are fully protected by this Act, even where no *mandamus* has issued.

The acts of a justice of the peace who has not duly qualified are not absolutely void; and therefore persons seizing goods under a warrant of distress signed by a justice who has not taken the oath at the general sessions, nor delivered in the certificate required, are not trespassers (*The Margate Pier Proprietors* v. *Hanam*, 3 B. & Ald. 266).

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Note.

See note to sect. 4, *supra*.

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orders of Queen's Bench.

their office as such justice or justices, it shall be lawful for the party requiring such act to be done to apply to Her Majesty's Court of Queen's Bench, upon an affidavit of the facts, for a rule calling upon such justice or justices, and also the party to be affected by such act, to show cause why such act should not be done; and if after due service of such rule good cause shall not be shown against it, the said court may make the same absolute, with or without or upon payment of costs, as to them shall seem meet; and the said justice or justices, upon being served with such rule absolute, shall obey the same, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against such justice or justices for having obeyed such rule, and done such act so thereby required as aforesaid.

Acts done under warrant when conviction is confirmed on appeal.

VI. In all cases where a warrant of distress or warrant of commitment shall be granted by a justice of the peace upon any conviction or order which, either before or after the granting of such warrant, shall have been or shall be confirmed upon appeal, no action shall be brought against such justice who so granted such warrant for any thing which may have been done under the same by reason of any defect in such conviction or order.

Where action is prohibited proceedings may be set aside.

VII. In all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action shall be brought it shall be lawful for a judge of the court in which the same shall be brought, upon application of the defendant, and upon an affidavit of facts, to set aside the proceedings in such action, with or without costs, as to him shall seem meet.

[Sects. 8, 9. Repealed by the S. L. R. Act, 1894.]

Action not to be brought in county court if defendant objects.

X. No action shall be brought in any county court against a justice of the peace for anything done by him in the execution of his office, if such justice shall object thereto; and if within six days after being served with a summons in any such action such justice, or his attorney or agent, shall give a written notice to the plaintiff in such action that he objects to being sued in such county court for such cause of action, all proceedings afterwards had in such county court in any such action shall be null and void.

[Sects. 11, 12. Repealed by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61), and replaced by the provisions of that Act.]

Damages.

XIII. In all cases where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or

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order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two-pence as damages for such imprisonment, or any costs of suit whatsoever, if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay.

[Sect. 14. Repealed by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61), and replaced by the provisions of that Act.]

Extent of Act.

XV. This Act shall extend only to England and Wales and the town of Berwick-upon-Tweed.

[Sects. 16, 17. *Repealing so much of* 7 *Jas.* 1, *c.* 5 ; 21 *Jas.* 1, *c.* 12 ; 14 *Geo.* 2, *c.* 44, *as relates to actions against justices of the peace, and also* 43 *Geo.* 3, *c.* 141, *and other Acts or parts of Acts inconsistent with the provisions of this Act :* Repealed by the S. L. R. Act, 1875.

Application of Act to cases of protection under repealed Acts.

XVIII. This Act shall apply for the protection of all persons for anything done in the execution of their office, in all cases in which, by the provisions of any Act or Acts of Parliament, the several statutes or parts of statutes herein-before mentioned and by this Act repealed would have been applicable if this Act had not passed.

[Sect. 19. Repealed by the S. L. R. Act, 1875.

POOR LAW (SCHOOLS) ACT, 1848.

11 & 12 VICT. CHAP. 82.

An Act to amend the Law for the Formation of Districts for the Education of Infant Poor. [31st August, 1848.]

[Preamble recited provisions of 7 & 8 Vict. c. 101, relating to the formation of school districts.]

Power to remove certain limitations

[I.] So much of the said Act as prevents the commissioners therein mentioned from including in any such district any

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Note.

The limitation of fifteen miles is imposed by 7 & 8 Vict. c. 101, s. 40, and the limitation of expenditure by sect. 44 of that Act. As

parish, any part of which would be more than fifteen miles from any other part of such district, and so much thereof as provides that the principal sum or sums to be raised for the purpose of providing any building or buildings for any school for any such district as aforesaid, and charged on any union, or on any parish not included in a union, shall in no case exceed one-fifth of the average annual amount of the aggregate expenditure relating to the relief of the poor within any such parish for three years ending the twenty-fifth day of March next preceding the raising of such money, shall not apply to prevent the combination of any union, or any parish not in union, for the purposes aforesaid, nor the raising of any money for the purpose aforesaid, when the major part of the guardians of the several unions and parishes not in union proposed to be combined shall previously thereto consent in writing to such combination.

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II. All the provisions contained in the Poor Law Amendment Act, 1842, in respect of the election, qualification, resignation, and the acts, of guardians of a union, and in respect of the supply of vacancies in the board of guardians, shall apply to the members of the district boards formed or to be formed under the authority of the first-recited Act and of this Act.

5 & 6 Vict. c. 57, extended to district boards.

III. The several words in this Act shall be construed in the manner prescribed in the said first-recited Act.

Interpretation.

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to the mode of consent of guardians, see the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 12.

Sect. 1. Note.

The borrowing powers of the managers of a school district, both as regards the amount which, and the purposes for which, money may be borrowed are now regulated by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

Many of the provisions here referred to are repealed; but the members of district boards are placed on the same footing as guardians, as to whose election, qualification, &c., see the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 20, 46, 60, and notes thereto.

Sect. 2. Note.

POOR LAW AUDIT ACT, 1848.

11 & 12 VICT. CHAP. 91.

An Act to make Provision for the Payment of Parish Debts, the Audit of Parochial and Union Accounts, and the Allowance of certain Charges therein.*

[31st August, 1848.]

[Preamble recited that it was expedient to make some provision as to the payment in certain cases of debts incurred by overseers after their year of office had expired.]

Debts of overseers.

[I.] If the overseers of the poor in any parish shall lawfully, by virtue of their office, contract any debt on account of the parish within three months prior to the termination of their year of office, and the same shall not have been discharged by them before their year of office shall have determined, such debt shall be payable by and recoverable from their immediate successors in office, and chargeable upon the poor rate of the said parish, in like manner as the same would have been payable and chargeable by such first-mentioned overseers during their year of office; and if any such debt shall have been contracted during their year of office, but more than three months prior to its termination, the same shall be payable by and recoverable from their immediate successors in office, if the ratepayers of the parish in vestry assembled, and the Commissioners for administering the Laws for Relief of the Poor in England, shall consent, but not otherwise.

* For "Poor Law Commissioners" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

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Note.

The Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 11, provided for the reimbursement of overseers by their successors out of arrears of rates made during the time of office of such overseers in respect of monies properly expended by such overseers; and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 29, now allows a rate to be made by their successors for the purposes of such reimbursement. The present section applies to cases where the outgoing overseers have incurred debts, but not expended monies of their own in paying them, and allows such debts to be paid, within certain limits, by their successors.

Apart from this statute overseers cannot, by their contracts, render their successors liable (*Snowden* v. *Elmsley*, 3 Stark. 28); nor, as they have no common seal, can they bind them by covenant (*Furnival* v. *Coombs*, 6 Scott N. R. 522; 5 M. & G. 736; 12 L. J. C. P. 265; 7 Jur. 399). This enactment, however, does not transfer the personal liability of overseers for debts contracted for legal proceedings for parish business to their successors; it merely enables the creditor to apply for a *mandamus* to the new overseers to levy a rate for the payment of the debt due to him (*Chalmers* v. *Jones*, 5 Exch. 229; 19 L. J. Ex. 239).

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Provision for payment of bills of costs for legal proceedings.

II. Provided nevertheless, that where any proceedings . . . shall be hereafter carried on, for or on behalf of any parish, in a court of law, regarding any matter affecting the poor rates of such parish, it shall not be necessary that the bill of costs of the solicitor engaged therein shall be paid before the termination of the proceedings, but in any case the amount of the bill, when duly taxed, if otherwise chargeable against the parish, shall be payable out of the poor rates within the space of one year next following the termination of the proceedings, but not afterwards, unless the commissioners aforesaid shall by their order authorize the payment of the costs and expenses attending any such proceedings by annual instalments, not exceeding five, to commence from such termination.

[Sect. 3. Repealed by the S. L. R. Act, 1875.]

Appeal against allowances,

IV. Where any appeal shall be made to the said commissioners against any allowance, disallowance, or surcharge made

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Sect. 2. Note.

A similar enactment relating to guardians is contained in the Poor Law (Payment of Debts) Act, 1859 (22 & 23 Vict. c. 49), s. 5. For the taxation of costs, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 39.

If when a matter is in litigation the overseers are changed, the new overseers are not liable for the costs unless a fresh retainer be given, actually or impliedly, to the solicitor employed (*Marsh* v. *Davies*, 1 Exch. 668; 17 L. J. Ex. 94; 12 J. P. 297; *Welby* v. *Brown*, 11 J. P. 602). But where a poor rate being appealed against was not defended by the successors of the overseers who made it, and the sessions quashed the rate and ordered the respondents to pay the costs, it was held that the new overseers were liable (*Ex parte Fletton*, 2 E. & E. 712; 29 L. J. M. C. 205; 6 Jur. (N. S.) 822; 8 W. R. 432).

Sect. 4. Note.

The Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32, provides for surcharges and disallowances being made by auditors; and sect. 36 of that Act provides for an appeal from the auditor to the Local Government Board in lieu of proceeding by *certiorari* to the High Court.

The equitable jurisdiction of the Local Government Board in the matter of appeals against allowances and disallowances is extended by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 38, which provides that "when an auditor shall have allowed, disallowed, or surcharged a sum in any account rendered to him jointly, and an appeal shall be made against the same, the decision of the auditor may be reversed by the court or the Local Government Board, as the case may be, and the disallowance or surcharge may be remitted by the said board in favour of one or more of the persons appearing only without discharging the other person or persons against whom such decision of the auditor was pronounced."

The effect of this section being to give the Local Government Board a dispensing power in the matter of expenditure of poor

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disallowances, and surcharges.

by any auditor in the accounts of any guardians, overseers, or their officers, it shall be lawful for the said commissioners to decide the same according to the merits of the case; and if they shall find that any disallowance or surcharge shall have been or shall be lawfully made, but that the subject matter thereof was incurred under such circumstances as to make it fair and equitable that the disallowance or surcharge should be remitted, they may, . . . direct that the same shall be remitted, upon payment of the costs, if any, which may have been incurred by the auditor or other competent authority in the enforcing of such disallowance or surcharge.

Mode of ascertaining and certifying balances due from officers.

V. [*Recital.*] Where any overseer or officer shall be continuing in office at the time when the accounts are audited, the auditor shall certify as due such sums of money only as shall be disallowed or surcharged by him in the accounts so audited; but where the term of office of such overseer or officer shall have expired at the time when the accounts are audited, he shall ascertain the balance which he shall find to be then due on the accounts so audited, together with the sums (if any) which he shall have disallowed or surcharged, and shall give

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Sect. 4. Note.

rates, the High Court will not (unless in exceptional circumstances) interfere by injunction to prevent guardians issuing precepts and expending the poor rates in the exercise of their discretion; and if it makes a declaration that the guardians have improperly made payments out of the rates, it will also provide that such declaration is not to affect the power of the Local Government Board to remit such unauthorized payments, although unlawfully made, under this or any other statute authorizing them to do so (*Att.-Gen.* v. *Merthyr Tydvil Guardians*, [1900] 1 Ch. 516).

Where guardians proposed to pay out of the poor rates the costs of promoting a bill in Parliament, the Court of Chancery granted an injunction to restrain them, and refused to allow such payment to be made on the chance of the auditor disallowing it (*Att.-Gen.* v. *Southampton*, 17 Sim. 8).

Before the passing of this Act or of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), which empowers auditors to surcharge where a portion of the money raised by poor rates had been misapplied, the Court of Chancery held it had jurisdiction and entertained an information without bill, against those guardians who, being the majority, had directed the misapplication, and the party to whom the money had been paid with notice of the source from which it came, to replace it, on the ground that poor rates in the hands of guardians are in the nature of a trust fund of which the guardians are trustees (*Att.-Gen.* v. *Compton*, [1842] 1 Y. & C. C. C. 417; *Att.-Gen.* v. *Pearson*, [1845] 2 Collyer, 581; 10 Jur. 651. See also *Att.-Gen.* v. *Wilkinson*, [1859] 28 L. J. Ch. 392, where it was stated that "poor rates are impressed with a definite trust to apply such rates in discharge only of legal liabilities").

Sect. 5. Note.

See sect. 9, *infra*, and 7 & 8 Vict. c. 101, s. 32, and the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 11, for the mode of recovering sums certified by auditors to be due.

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credit for all sums which shall be proved before him to have been paid in respect of such balance to the succeeding overseers or officers or otherwise lawfully applied on behalf of the parish or union interested therein, before the date of his audit, and he shall certify, report, and recover in the manner provided by law, the balance remaining due after such credit shall have been given ; and every certificate made by any auditor, if made according to the forms set forth in the schedule hereunto annexed, or to the like effect, shall be deemed to be sufficient : Provided always, that where the sum or the aggregate of the sums disallowed by the auditor in the account of any officer shall not amount to forty shillings, the same may be paid over with the balance due from such officer, instead of being paid to the treasurer.

Sums paid by overseers to constables under 5 & 6 Vict. c. 109, not to be disallowed.

VI. Where any money shall have been paid by an overseer to a constable, headborough, tithingman, or other peace officer, in obedience to . . . an order of justices in petty sessions assembled, purporting to be made in conformity with the provisions contained in the Act of the sixth year of the reign of Her present Majesty, for the appointment and payment of parish constables, it shall not be disallowed by any auditor or other authority competent to examine, allow, and disallow the accounts of overseers, on any ground whatsoever.

Notice of audit to be advertised.

VII. In addition to the notices now required by law to be given by the auditor, he shall also give notice by advertisement in some newspaper circulating in the county wherein the union or the greater part of it, or, in the case of a parish not comprised in a union, wherein such parish shall be situated, a reasonable time prior to the holding of his audit ; and the production of a copy of such newspaper shall in all courts and for all purposes be deemed sufficient evidence of the notice of the audit : and, except where a party, not being an officer bound to account to the auditor, shall be surcharged by such auditor, it shall not be necessary to prove that the audit of any accounts was adjourned, and that notice of any such adjourned audit was given.

Notice by auditor to person surcharged.

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VIII. If an auditor shall see cause to surcharge any person now liable by law to be surcharged by him, and to whom no

See sect. 17 of the Parish Constables Act, 1842 (5 & 6 Vict. c. 109), as to the order of justices referred to in this section.

Note.

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As to the notices "now required by law" to be given by the auditor to the parish officer and clerk of guardians, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 33.

Note.

Sect. 8.

Notice of the audit is required to be given to accounting officers by 7 & 8 Vict. c. 101, s. 33, so that the persons mentioned in this section "to whom no notice is now required by law to be given" are persons other than accounting officers.

Note.

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notice is now required by law to be given, with any sum of money in reference to any payment considered by him to have been illegally or improperly made, he shall, if the person be not present at such audit, cause notice in writing of his intention to make such surcharge to be given, by post or otherwise, to the person against whom he shall propose to make this surcharge, addressed to him at his last known place of abode, and shall adjourn the audit, so far as it shall relate to such particular matter, for a sufficient time to allow of such person appearing before him, and showing cause against such surcharge, and at such time the said auditor shall hear the party, if present, and determine according to the law and justice of the case.

Recovery of sums certified by auditor.

IX. In any proceedings to be taken by an auditor, or by his attorney, before justices, to recover sums certified by him to be due, it shall be sufficient for him to produce a certificate of his appointment under the seal of the Poor Law Commissioners, or of the commissioners aforesaid, and to state and prove that the audit was held, that the certificate was made in the book of account of the union or parish to which the same relates, and that the sum certified to be due had not been paid to the treasurer of the guardians of the union, or of the parish, as the case may require, within seven days after the same had been so certified, nor within three clear days before the laying of the information, of which non-payment a certificate in writing, purporting to be signed by the treasurer, shall be sufficient proof on the part of the auditor; and if at the hearing of such information it shall be proved that the said sum had been paid to the treasurer subsequently to the date of such last-mentioned certificate, the costs incurred by such auditor shall be paid by the party against whom the information shall be laid, unless he prove that notice of such payment had been given to the auditor twenty-four hours at least prior to the laying of the information.

Sect. 9.

See note to sect. 5, *supra*, for statutes under which proceedings are taken.

Note.

On an application to justices for a distress warrant to levy a sum surcharged by an auditor, if the statutory proof of the surcharge required by this section is complete, the justices have no power to inquire into the validity of the grounds for the surcharge, but must issue a warrant, and if they refuse to issue it, the court will compel them by *mandamus* to do so (*Reg.* v. *Finnis*, 1 E. & E. 935; 28 L. J. M. C. 201; 5 Jur. (N. S.) 791; 23 J. P. 340; *Reg.* v. *Linford*, 7 E. & B. 950). The treasurer's certificate, however, that the money has not been paid is only *primâ facie* evidence of the non-payment, and it is open to the person surcharged to show what he has paid, if he can do so without contradicting the auditor's certificate (*Reg.* v. *Fordham*, L. R. 8 Q. B. 501; 42 L. J. M. C. 153; 22 W. R. 85).

Sect. 10.

Auditor may appoint a deputy.

X. The said commissioners may at any time, upon sufficient cause being shown to them, authorize any person selected by the auditor to act temporarily as his deputy, and shall communicate to the several unions and places forming his district the name of the person so appointed to act as his deputy, and such person shall thereupon be empowered to act in all respects, and with the same authorities, and subject to the same duties and liabilities, as the auditor himself is entitled or subject to.

Power for parishes mutually to bear the costs of several appeals.

XI. Where appeals are brought at the same time against the poor rates of several parishes, which may appear to involve some common principle, it shall be lawful for the overseers or other authorities therein, with the consent of the respective vestries of such parishes, to enter into an agreement, to be approved of by the said commissioners, mutually to bear the costs which may be properly incurred in and about the trial of such appeals on the part of the several respondents, as well as costs of the appellants, if any, which may be awarded against the respondents, in such proportions as shall be fixed and determined with reference to the amount of interest of the several parishes in the question, or otherwise as shall appear just; and the said agreement shall continue binding upon the several parishes, and their respective overseers in succession, until the several appeals shall have been finally determined.

Power for guardians, &c. of parishes or unions under local Acts to grant outdoor relief.

4 & 5 Will. 4, c. 76.

XII. [*Recital.*] In all cases where the relief of the poor is administered in any parish or union under the provisions of any local Act, it shall be lawful for the guardians or other competent authority administering the relief to the poor in any such parish or union, if they think fit, to administer such relief in all respects in like manner, and with the like powers and authorities, as any board of guardians of a union formed under the provisions of the Poor Law Amendment Act, 1834, is now or shall hereafter be authorized to do; . . . Provided always, that the cost of all such relief so . . . to be given shall be charged among the parishes in the same union in like manner

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Sect. 10. Note.

A temporary auditor may be appointed under sect. 8 of the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103).

Sect. 11. Note.

The principle of this section is extended to enable guardians of interested unions joining to bear the costs of appeals by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 29.

Two or more persons separately rated and aggrieved by the same rate may join in one appeal against it (*Rex* v. *White*, 4 T. R. 771; *Rex* v. *Sussex JJ.*, [1812] 15 East, 206).

Sect. 12. Note.

The words omitted from this section referring to relief already given at the passing of the Act are repealed by the S. L. R. Act, 1875.

Sect. 12. and in like proportion as the relief . . . to be given in the workhouse of such parish or union . . . shall . . . be chargeable.

Interpretation.

XIII. The several words used in this Act shall be construed in the manner prescribed by the said herein-before recited Act, and the Acts explaining and extending it.

SCHEDULE TO WHICH THIS ACT REFERS.

Sect. 5.

FORMS OF CERTIFICATES.

1.—*Against an accounting Officer.*

I do hereby certify, that in the account of A. B., the [*set out the name of the office*] of the parish of [*or* of the union], I have disallowed [*or* surcharged] the sum of .

As witness my hand, this day of , 1848.

M. N., Auditor of the district, which comprises the above-named parish or union.

2.—*Against a person not an accounting Officer.*

I do hereby certify, that in the accounts of the union [*or* of the parish of] I have disallowed the sum of £ , as a payment illegally made out of the funds of such union [*or* parish]; and I find that C. D., of , authorized the making of such illegal payment, and I do hereby surcharge the said C. D. with the same.

As witness my hand, this day of , 1848.

M. N., Auditor of the district, which comprises the above-named union or parish.

POOR LAW AMENDMENT ACT, 1848.

11 & 12 VICT. CHAP. 110.

An Act to alter the Provisions relating to the Charges for the Relief of the Poor in Unions. [4th September, 1848.]

[Preamble recited 4 & 5 Will. 4, c. 76, and that it was expedient to alter the mode in which the relief of certain poor persons was chargeable.]

[Sect. 1 *provided that the costs of relief and burial of wandering poor should be chargeable to the common fund of the union:* Repealed by the S. L. R. Act, 1875, such matters being included in the provisions of the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1.]

Sect. 2.

Where poor persons require relief in some other parish the cost of such relief to be repaid by the parish or union chargeable.

II. Where any poor person having a fixed place of abode in a parish in any union shall hereafter, by reason of accident, bodily casualty, or sudden illness, occurring to him while in some other parish in which he has no legal settlement, require relief, the cost of all the relief given by lawful authority in that behalf, as well medical as otherwise, shall, if the poor person be at the time in receipt of relief, be paid or reimbursed in like manner and by the same union or parish as any other relief shall be then payable, but if he be not then in receipt of relief, it shall be paid or reimbursed, as the case may require, by the parish in which such poor person shall then have his place of abode, unless by reason of any provision of the law he would, if otherwise chargeable, have been chargeable to the common fund of such union, in which case the payment or reimbursement shall

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Sect. 2.

Note.

Casual poor are those poor persons who are not settled in the parish nor reside there, but who happen casually to be there at the time when, from some accident occurring to them, or from their being suddenly afflicted with some illness, they are obliged to resort to the parish officer for relief. In such cases it is the duty of the parish or union where the pauper becomes "casual poor" to relieve him and pay the expenses attending his cure there (*Newby* v. *Wiltshire*, Cald. 527; *Tomlinson* v. *Bentall*, 5 B. & C. 738; *Reg.* v. *St. Pancras*, 7 A. & E. 750). The object of this section was to cast upon the parish or union in which the pauper usually lived the onus of reimbursing the foreign parish or union the expenses necessarily incurred by the latter in relieving the casual poor person.

The liability of overseers of parishes for the relief of casual poor, before the transfer of the administration of the poor law to guardians of unions, is exemplified by the following cases: A pauper having met with an accident in the parish of A. was wrongfully removed, but with her own consent, to the parish of B., to which she belonged. *Held* that as she was casual poor in A. the overseers of A. were liable, without an express promise, to pay the expenses of her cure in the parish of B. (*Tomlinson* v. *Bentall*, 5 B. & C. 738).

A pauper settled in A. was taken ill and died in the parish of B. *Held* that the overseers of A. were not liable for the necessary expenses of medical attendance supplied to the pauper by the officers of the parish of B. (*Atkins* v. *Banwell*, 2 East, 508). Generally where a pauper met with an accident or was taken ill in a parish to which he did not belong, he became casual poor of that parish, and entitled to be relieved by the officers of that parish, and the overseers of his own parish were under no liability, except on an express promise, to repay the expenses necessarily incurred in relieving him (*Gent* v. *Tompkins*, 5 B. & C. 746 n.; 1 D. & R. 541; *Paynter* v. *Williams*, 1 C. & M. 810).

If a parish was not legally liable to relieve a pauper, an overseer, at whose request, express or implied, relief was given to the pauper, was personally liable for the cost of such relief (*Lamb* v. *Bruce*, 4 M. & S. 275; *Hawtayne* v. *Bourne*, 7 M. & W. 600).

When a parish was legally liable to relieve a pauper, a person who took care of such pauper might recover from the overseers the cost of so doing (*Simmons* v. *Wilmott*, 3 Esp. 91).

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be made by the guardians of the union comprising such parish, and shall be charged to the common fund of the union; and it shall be lawful for the guardians of any union, if they think proper, to pay for any medical or other assistance which shall be rendered to any poor person on the happening of any accident, bodily casualty, or sudden illness, although no order shall have been given for the same by them or any of their officers, or by the overseers, and to charge the same to some one parish in the union, or to the common fund of the union, according as such parish or union would have been liable for the ordinary relief of such poor person; provided that nothing herein contained shall exempt the guardians of the union or parish, or their officers, or the overseers of the parish, in which such poor person shall require relief by reason of such accident, bodily casualty, or sudden illness, from their liability to supply the requisite relief to such poor person whilst in such union or parish.

[Sect. 3. *That irremovable paupers should be chargeable to the common fund of the union.* Sect. 4. *That disputes between parishes in a union as to the cost of relief might be settled on appeal to the Poor Law Commissioners:* Repealed by the S. L. R. Act, 1875, having been rendered unnecessary by the provisions of the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79).]

Emigration of paupers rendered irremovable by 9 & 10 Vict. c. 66.

V. The guardians of any union or parish may, with the order of the said commissioners and in conformity with such regulations as they shall make, procure or assist in procuring the emigration of any poor person rendered irremovable by virtue of the provisions of the Poor Removal Act, 1846, and chargeable, or who would, if relieved, be chargeable, upon the common fund of such union, or, in the case of any parish not comprised in a union, who may, though not settled therein, be irremovable as aforesaid therefrom; and such guardians shall, in the case of a union, charge the costs and expenses incurred in such emigration upon the common fund, and, in the case of a parish not in a union, upon the monies in their hands for the relief of the poor.

[Sect. 6. *Mode of charging cost of relief on the common fund:* Repealed by the S. L. R. Act, 1875.]

Sect. 5. Note.

The "last-mentioned Act" is the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), referred to in the repealed sect. 3.

Power was given to guardians by 4 & 5 Will. 4, c. 76, ss. 62, 63, to raise money for purposes of emigration; and such powers are further regulated and extended by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 29; the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 20; the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 4; and the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 9.

Sect. 7.

Valuation of property alleged to be rateable.

VII. The guardians of any union may, on the application of the major part of the overseers of any parish comprised in it, or of any person assessed to the poor rate in any such parish, cause a valuation to be made at any time of any property alleged to be rateable to the relief of the poor, being a part only of the rateable property of such parish, and may charge the expenses of such valuation to the overseers of such parish, or to such person so applying as aforesaid.

Orders of maintenance against relatives.

VIII. The guardians of any union shall be entitled to obtain orders of maintenance upon the relations liable under any statute now in force to maintain any poor person whose relief would be chargeable to the common fund of the union, in like manner as the churchwardens and overseers of any parish can now obtain the same, and may expend in respect of such person, out of such fund, any money for any purpose which the overseers of the parish to which such person, if chargeable, would have belonged might have done; and all relief to be granted by the guardians to any pauper upon loan, and which shall be chargeable to the common fund of the union, or to any parish therein, may be recoverable in the county court or other court for the recovery of small debts for the district wherein the union or the

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Sect. 7. Note.

The provisions of this section are by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 28, applied to the guardians of a parish not comprised in any union.

A re-valuation of the whole parish may be made under the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 3. An assessment committee can order re-valuation of the whole or any part of a parish, under the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 26; and by sect. 33 of the same Act quarter sessions, on appeals by overseers or parish councils against the valuation list, may order valuations to be made of any parishes in respect of which such appeal is made.

Sect. 8. Note.

The liability to maintain destitute relations is imposed generally upon blood relations by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 6; husbands are liable under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 57, to maintain the illegitimate children of their wives until the age of sixteen; and by the Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), s. 21, a married woman is liable to support her grandchildren.

Guardians are empowered by the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 17, to take and conduct legal proceedings by their officer in the manner therein specified.

Overseers were empowered by the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 29 (now repealed), to summon persons before justices for repayment of relief granted by way of loan; and by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 59, can still summon the pauper and his master or employer before justices to stop out of the pauper's wages the amount advanced to the pauper by way of loan.

Sect. 8.

major part thereof shall be comprised, on the plaint of the said guardians, who may apply and be heard in such court by any officer appointed by them for such purpose, in manner prescribed by the statutes enabling them to appoint officers to act for them: Provided nevertheless, that the remedy already provided by law for the recovery of the relief granted on loan shall be in force and applicable to the relief so chargeable to the common fund as aforesaid.

Gaols to which convicted paupers may be sent.

IX. If any person herein-before made chargeable upon the common fund of the union shall be convicted before any justice of any offence committed in any workhouse while maintained therein, or of deserting or running away from any workhouse, and carrying away clothes or other property therefrom, and be liable to be committed to any gaol or house of correction, the justice before whom such person shall be convicted may commit such person to the gaol or house of correction of the county or place containing the parish in which such person, if chargeable to the common fund by reason of being exempt from removal under the statute herein-before mentioned, shall have been residing when admitted into the workhouse, or to that of the county or place comprising the major part of such union, in the case of any other person herein rendered chargeable on the said common fund, notwithstanding such workhouse may not be situated in such county or place, or that such justice may not be a justice of such county or place; and the charges of the conveyance of such person to such gaol or house of correction, and all other charges consequent upon such committal, shall be borne by such county or place, in like manner as the charges of persons committed in the ordinary mode to the gaol thereof shall be borne.

9 & 10 Vict. c. 66.

Application of monies found on paupers.

X. Upon application for relief, by admission to the workhouse of any such union as aforesaid, or otherwise, by any poor person professing to be a destitute wanderer or wayfarer, the master, porter, or other officer of such workhouse, or the relieving officer of such union or overseer of any parish to whom such application for relief shall be made, may search such person, or cause him to be searched, and may take from such person any money which shall be found upon him, and shall deliver the same to the guardians, to be by them applied in aid of the common fund of the union; and every person who shall apply for relief at any workhouse, or to any relieving officer or overseer, having at the time of such application in his possession and under his immediate control any money or other property, of which, on inquiry made by the guardians or their officers, or by overseers, he shall not make correct and complete disclosure, shall be taken to be an idle and disorderly person within the meaning of the Vagrancy Act, 1824, and shall be punishable and dealt with in all respects, and with

5 Geo. 4, c. 83.

the like proceedings, as idle and disorderly persons under the said Act. Sect. 10.

XI. In any court, and before any justice or justices, and for all purposes, a certificate of the chargeability of any person named therein, in the form prescribed in the schedule marked C. to the Poor Law Amendment Act, 1844, and purporting to have been executed in the manner prescribed by that Act, shall be received within the space of twenty-one days from the date thereof as sufficient evidence of the chargeability of the person named therein, unless the contrary be otherwise shown. Certificate of chargeability under 7 & 8 Vict. c. 101, deemed sufficient evidence for twenty-one days.

XII. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the statutes explaining and extending it. Interpretation. 4 & 5 Will. 4, c. 76.

[Sect. 13. Repealed by S. L. R. Act, 1875.]

POOR REMOVAL ACT, 1848.

11 & 12 VICT. CHAP. 111.

An Act to amend an Act of the Tenth Year of Her present Majesty, for amending the Laws relating to the Removal of the Poor. [4th September, 1848.]

[Preamble recited at length 9 & 10 Vict. c. 66, s. 1, and that "by reason of the generality of the words used in the last proviso, doubts were entertained as to the meaning thereof."]

[I.] Be it enacted that the said last proviso be repealed, and that instead thereof the following be enacted: Provided always, that whenever any person should have a wife or children having no other settlement than his or her own, such wife and children Proviso in 9 & 10 Vict. c. 66, s. 1, as to removal of wives and

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For the mode of executing such certificate, see sect. 69 of 7 & 8 Vict. c. 101. Sect. 11.

Note.

The Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 1, after enacting that no person shall be removed, nor shall any warrant be granted for the removal of any person, from any parish in which such person shall have resided for five years (now one year), contained a second proviso (now repealed by this Act), that "whenever any person shall have a wife or children having no other settlement than his or her own, such wife and children shall be removable, whenever he or she is removable, and shall not be removable when he or she is not removable." While this second proviso was in force, upon appeal against an order for the removal of Mary Elsbury and her three children from the parish of St. Andrew, Cambridge, to the parish of St. Ebbe, Oxford, it appeared that the pauper's Sect. 1.

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children, repealed, and another substituted.

should be removable from any parish or place from which he or she would be removable, notwithstanding any provisions of the said recited Act, and should not be removable from any parish or place from which he or she would not be removable by reason of any provision in the said recited Act.

* * * * *

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husband came to dwell in the respondent parish, with his wife and three children, at Midsummer, 1846, and they resided there together until March, 1847, when he deserted them; the wife and children, however, continued to reside there until the making of the order, but the husband was still absent when the order was made, and up to and after the trial of the appeal, and his residence was unknown; it was contended that as the husband was not residing in the parish of St. Andrew at the date of the order, and could not therefore be then removable from it, his wife and children were not removable from it, by the said proviso at the end of sect. 1 of 9 & 10 Vict. c. 66; but the court held that the proviso merely meant that the wife and family of a man should not be removed from a parish, if the husband, supposing him to be there, would not be irremovable; here, if the husband were in the parish and chargeable, he would be removable, and his wife and children were so likewise (*Reg.* v. *St. Ebbe, Oxford*, 18 L. J. M. C. 14; 13 J. P. 216). It was partly in order to give statutory force to this decision, and partly to clear up the doubt whether the proviso extended to irremovability other than that which is acquired under 9 & 10 Vict. c. 66, that this Act was passed substituting a new proviso.

The applicability of the proviso enacted in this Act only to cases of irremovability acquired under 9 & 10 Vict. c. 66, is illustrated by the following case: The wife and children of a marine had resided for five years in S. The husband had not so resided. The husband being absent on Her Majesty's service, the wife and children were removed to C. It was held that they were properly removed, notwithstanding 9 & 10 Vict. c. 66, and 11 & 12 Vict. c. 111, though the husband, if present, could not have been removed in consequence of his being a marine; inasmuch as the proviso in the latter statute only prohibits the removal of the wife or children of a person who had acquired the status of irremovability under 9 & 10 Vict. c. 66 (*Reg.* v. *East Stonehouse*, 3 E. & B. 596; 23 L. J. M. C. 137; 23 L. T. 77; 18 J. P. 522).

Wife.

If a wife becomes chargeable in the absence of her husband, she may be removed to the place of his last legal settlement, if he has one, or, if not, then to the place of her maiden settlement, notwithstanding the proviso in this statute (*Reg.* v. *Much Hoole*, 21 L. J. M. C. 1).

A wife abandoned by a husband who has no settlement (*Reg.* v. *St. Marylebone*, [1851] 16 Q. B. 352; 20 L. J. M. C. 61; *Rex* v. *Cottingham*, 7 B. & C. 615), or of whose settlement she is ignorant, is, upon becoming chargeable, properly removed to the place of her maiden settlement (*Rex* v. *Harberton*, 13 East, 133; S. P. *Rex* v. *St. Botolph's, Bishopsgate*, Burr. S. C. 367). A woman married a man who had no settlement, and he died: the court held that upon her becoming chargeable, she was properly removed to the place of her maiden settlement (*St. Giles* v. *St. Margarets'*, Fol. 251). But if the husband have or had a settlement, she must

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be removed to that parish, and not to the place of her maiden settlement (*Rex* v. *Higher Walton*, Burr. S. C. 162).

By the Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 3, as amended by the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 17, a deserted wife may become exempt from removal by a year's residence. (See notes to those statutes.)

Separation of husband and wife is against the policy of the law: and where a wife is residing with her husband, and he has a settlement, she cannot be removed alone, so as to separate her from her husband, without the consent of both (*Reg.* v. *Leeds*, 5 Q. B. 916; 13 L. J. M. C. 107; 8 J. P. 517; S. P. *Reg.* v. *Stogumber*, 9 A. & E. 622; *St. Michael's, Bath*, v. *Nunney*, 1 Str. 544; Burr. S. C. 815; *Rex* v. *Cuckfield*, Burr. S. C. 290). The consent of the husband or of the wife alone is not sufficient (*Rex* v. *St. Mary Beverley*, 1 B. & Ad. 201).

Where, however, a wife having become insane and chargeable to the union in which her husband dwelt, was taken to the workhouse of the union and certified to be a proper person to be detained in a workhouse, an order was made for her removal alone to the union containing her husband's last place of settlement. The husband consented to the removal order, but the wife was mentally incapable of consent. It was held that the order was rightly made and did not contravene the policy of the law with regard to the separation of husband and wife (*Reg.* v. *Preston Union*, 11 Q. B. D. 113; 52 L. J. M. C. 97; 49 L. T. 104; S. C. *Reg.* v. *Garstang Union*, 48 J. P. 69).

Where the husband has no settlement, the wife, if living with her husband, although she become chargeable, cannot legally be removed from him to the place of her maiden settlement without the consent of both, even if the consent of both would make the order for removal valid (*Reg.* v. *Leeds*, 5 Q. B. 916; 13 L. J. M. C. 107, *supra*; and see *Reg.* v. *St. George's-in-the-East*, L. R. 5 Q. B. 364; 39 L. J. M. C. 90; 22 L. T. (N. S.) 440).

A woman, residing in Hoylandswain, under a certificate from Carleton, married a man who had no settlement; she and her children becoming chargeable, were removed to Carleton, leaving the husband in Hoylandswain. The court held that this could not legally be done; the wife and children could not be separated from the husband, even although he had no settlement (*Rex* v. *Carleton*, Burr. S. C. 813).

Where, however, an order for the removal of a wife and children to Eltham, as the place of the wife's maiden settlement, stated her to be the wife of a man who had no settlement and purported to have been made upon the examination of both husband and wife, and with the consent of both, the court held it to be good; for if the husband had no means of supporting them, and had no settlement to which they might be removed, why should he not be allowed to consent to their having the benefit of her settlement? (*Rex* v. *Eltham*, 6 East, 113; this case has, however, been doubted).

A man who had no settlement became lunatic, and an order was made for the removal of his wife and children to the place of her maiden settlement; it was objected that the order was bad, as it stated no desertion of the wife or children by the husband. The court held that they would not presume that they were living together at the time of the removal, or any other fact which would

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have the effect of vitiating the order; and as the order stood, it was perfectly consistent with it that they were not living together, or that he was living in the parish to which the wife and children were about to be removed (*Rex* v. *Stockton*, 5 B. & Ad. 546).

One effect of the proviso in this statute is that a wife cannot (unless deserted by her husband) acquire for herself during coverture a status of irremovability by residence in a parish or union in which her husband is not irremovable (*Reg.* v. *Kingston*, 23 L. T. (N. S.) 488).

The break of the husband's residence renders the wife and children removable, notwithstanding their unbroken personal residence in the respondent parish (*Reg.* v. *Llanelly*, 17 Q. B. 40; 15 Jur. 10; 20 L. J. M. C. 179; 15 J. P. 534; *Reg.* v. *Manchester*, 17 Q. B. 46).

Residence, however, as wife may, if there is no break of residence, coalesce with residence as a widow to complete the period of residence required for irremovability (*Reg.* v. *Glossop*, 12 Q. B. 117; 17 L. J. M. C. 171; 3 N. S. C. 256; 12 Jur. 1071).

A woman who, while single, has gained a status of irremovability by residence in a union, and while so irremovable marries a man who has no settlement, retains her status of irremovability while she continues to reside in the same union. A woman having a settlement, but having resided more than a year in another parish, married a foreign sailor having no settlement. They resided together in the same parish until he left in the usual course of his occupation as a sailor, intending to return, but not having made any provision for his wife's maintenance. She continued to reside in the same parish, and became chargeable thereto. At this time the husband had not resided one year in the parish. *Held* that the woman was irremovable by reason of her continuous residence before and during marriage, and that she was not affected by the proviso in 11 & 12 Vict. c. 111, s. 1 (*Reg.* v. *St. George-in-the-East*, L. R. 5 Q. B. 364; 39 L. J. M. C. 90; 22 L. T. (N. S.) 440).

So also residence before marriage by a woman who marries a man who has no settlement may be united with subsequent residence by her as wife in order to complete the period necessary to confer on her a status of irremovability. A pauper Hannah Rosier, born in the parish of Ufford, in 1812, resided continuously in that parish from 1829 until 1848, when she married Rosier, who had a settlement in Stowmarket, but they continued to live in Ufford until his death in 1850, and afterwards she continued to live there with one child she had by the marriage, and three illegitimate children she had before it, until 1852, and having been chargeable about a year, an order was obtained for her removal with her family to Stowmarket; but the court held that they were not removable, for the marriage altered the settlement only, and did not affect the irremovability (*Reg.* v. *Stowmarket*, 17 J. P. 84; 1 W. R. 147, cited 4 E. & B., p. 904).

A pauper lunatic living by consent apart and in a different parish from her husband, who was irremovable by virtue of 9 & 10 Vict. c. 66, was sent to an asylum and an order for her maintenance made upon the parish of her husband's settlement under 16 & 17 Vict. c. 97, s. 97. *Held* that the order was rightly made as the wife was not in the circumstances irremovable under the proviso of this statute (11 & 12 Vict. c. 111, s. 1) (*Reg.* v. *East Retford*, 3 B. & S. 122; 32 L. J. M. C. 17; 27 J. P. 662).

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Note.

The proviso enacted in this statute (11 & 12 Vict. c. 111, s. 1) applies to children living with their parent as part of the family, and having no settlement other than that derived from such parent, notwithstanding the age of such children may be above sixteen; and such proviso is not repealed or affected in its construction by sect. 35 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61). A child, after living in the appellant union with its father, who had acquired a settlement by residence there, removed with him into the respondent union, and while residing there with him as part of his family, attained the age of sixteen, and became chargeable. An order was made for the removal of the child to the appellant union. At the date of this order, the father had resided for more than a year in the respondent union, and had thereby become irremovable. *Held* that notwithstanding 39 & 40 Vict. c. 61, s. 35, the proviso in 11 & 12 Vict. c. 111, s. 1, applied, and that as the father was not removable from the respondent union, the child also was not removable (*Mitford Union* v. *Wayland Union*, 25 Q. B. D. 164; 59 L. J. M. C. 86; 63 L. T. 299; 38 W. R. 632; 54 J. P. 757). Unemancipated children above sixteen living with parent or part of family.

A pauper aged thirty had always lived with her father and mother, being unable to take care of herself. The father had lived in parish M. more than five years when he died in 1856. The pauper then lived with the mother till 1858, when the pauper went into the workhouse, and while in the workhouse the mother, who had acquired no settlement in her own right, went to reside in parish C. In 1860, the pauper was sent from the workhouse to the county lunatic asylum. *Held* that the pauper being unemancipated, her status of irremovability followed the mother's, and as at the date the lunatic was sent to the asylum, the mother, by breaking her residence, was removable, so was the lunatic, and therefore the parish of the father's settlement was chargeable with the maintenance (*Reg.* v. *St. Mary Arches, Exeter*, 1 B. & S. 890; 31 L. J. M. C. 77; 8 Jur. (N. S.) 457; 5 L. T. (N. S.) 637; 26 J. P. 356).

If the child is unemancipated, the proviso in 11 & 12 Vict. c. 111, s. 1, applies to it notwithstanding that it is living apart from its parents. A girl nineteen years of age, unemancipated, who had no other settlement than that of her mother, who was a widow, resided for two years apart from her mother in the respondent union. She then became chargeable, and was removed to her mother's place of settlement. It was held that being unemancipated, and not having gained a settlement in her own right, she was removable under this proviso, although she had resided more than a year in the respondent union (*Reg.* v. *St. Olave's Union*, L. R. 9 Q. B. 38; 43 L. J. M. C. 15; 29 L. T. (N. S.) 426; 38 J. P. 562). Unemancipated children above sixteen living apart from parent.

Although the removability of an unemancipated child depends upon the removability of the head of the family, so that if the head of the family would be removable, the child is also removable, and consequently an unemancipated child cannot gain for itself an original status of irremovability by residence, yet the period of residence of an unemancipated child living with its parent may be united with the period of residence after emancipation, so as to enable such child to acquire for itself a status of irremovability by a year's residence under the first part of 9 & 10 Vict. c. 66, s. 1 (*Reg.* v. *Elvet*, 2 E. & E. 296; 29 L. J. M. C. 17; 5 Jur. (N. S.) 1350; 7 W. R. 586). Periods of residence before and after emancipation may coalesce.

A man left his wife and daughter and lived for many years with another woman in the same parish, but allowed his wife 2*s.* 6*d.* a Children of deserted wives.

POOR LAW (OVERSEERS) ACT, 1849.

12 & 13 VICT. CHAP. 8.

An Act to remove Doubts as to the Appointment of Overseers in Cities and Boroughs. [22nd March, 1849.]

[Preamble recited the Poor Relief Act, 1601 (43 Eliz. c. 2), *ante*, and that doubts existed as to the proper authority to appoint overseers in boroughs, &c.]

Justices in cities and boroughs to

[I.] In every city, town corporate, or borough, the justices of the peace having jurisdiction therein shall have the exclusive

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11 & 12 Vict. c. 111. Sect. 1.

Note.

week in consequence of proceedings being threatened against him by the officers of the parish to which she had become chargeable. The wife and daughter went to another parish and lived there two years. This amounted to desertion within 24 & 25 Vict. c. 55, s. 3, and the wife was therefore irremovable; but her daughter, who was then eighteen years of age, was removable, as the mother, by desertion, did not become the head of the family, and the father, who was the head of the family, would have been removable. *Per* Cockburn, C.J.: "It was lamentable that the child in this case should be separated from the mother, but the statute having said that a child under sixteen shall not be removed, and this child being above sixteen, she is liable to be removed" (*Reg.* v. *St. Mary's, Islington*, L. R. 5 Q. B. 445; 39 L. J. M. C. 137; 22 L. T. (N. S.) 654; 34 J. P. 646).

Constructive residence of child with parent.

An illegitimate child lived with his mother and her husband, who in 1862 had resided for more than a year in the parish of L. The child was sent in 1862, being fifteen years of age, to a "School for the Indigent Blind," a charitable institution in another union, where he was maintained by the institution. He remained at the school till 1868, when he was discharged, being more than twenty-one years of age. During the summer holidays he had resided from time to time with his mother and her husband at L., and on his discharge he returned to them at L. It was held that the proper inference to be drawn from the facts was that he had constructively resided with his mother and her husband at L. for more than a year and was irremovable therefrom (*Reg.* v. *Abingdon*, L. R. 5 Q. B. 406; 39 L. J. M. C. 153; 22 L. T. (N. S.) 603; 18 W. R. 981).

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12 & 13 Vict. c. 8. Sect. 1.

Note.

This section is explained and amplified by the Justices Jurisdiction Act, 1852 (15 & 16 Vict. c. 38), so as to enable county justices, who otherwise have jurisdiction in boroughs, to act also in matters relating to the poor.

The powers conferred on borough justices by this section are now subject to the power of the Local Government Board to transfer the right of appointing overseers to the council of, or any other representative body within, any borough or other urban district (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 33 (1)).

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right of appointing the overseers of the poor of the several parishes, townships, or other places separately maintaining their own poor, or of any parts thereof, within the said cities, towns corporate, and boroughs respectively, in like manner and with the same effect as the justices of any county now have in respect of the overseers of the poor of any parish within such county, and they are hereby required from time to time to make such appointments accordingly.

appoint overseers of parishes.

[Sect. 2 *repealed that part of* 43 *Eliz. c.* 2, *s.* 10, *which imposed a penalty on the mayor, &c., of any town, &c., for default in nominating overseers:* Repealed by the S. L. R. Act, 1875.]

[Sect. 3. Repealed by the S. L. R. Act, 1875.]

IV. This Act shall not apply to the city of London, nor to any of the parishes comprised therein, nor to the appointment of the overseers of any parish, township, or place, where such appointment is regulated by the provisions of any local Act.

Act not to apply to city of London or places under local Acts.

[Sect. 5. Repealed by the S. L. R. Act, 1875.]

POOR RELIEF ACT, 1849.

12 & 13 VICT. CHAP. 13.

An Act to provide a more effectual Regulation and Control over the Maintenance of poor Persons in Houses not being the Workhouses of any Union or Parish.*

[11th May, 1849.]

[Preamble recited that poor persons were often lodged by contract in houses not being workhouses, and that such houses were not under sufficient control.]

[I.] It shall be lawful for the Commissioners for Administering the Laws for Relief of the Poor in England, and they are hereby required, from time to time as they shall see occasion, to

Regulations for management of houses where poor

* For "Poor Law Commissioners" throughout this Act, now read "Local Government Board" (34 & 35 Vict. c. 70).

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Note.

The Poor Law Commissioners were authorized to make rules, &c., for the relief of the poor and for the regulation of workhouses by sects. 15 and 42 of 4 & 5 Will. 4, c. 76; penalties were imposed on persons wilfully disobeying such rules by sect. 98 of that

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persons are maintained under contract with guardians, &c., or for education of children.

make and issue all such rules, orders, and regulations, for the management and government of any house or establishment wherein any poor person shall be lodged, boarded, or maintained, for hire or remuneration, under any contract or agreement entered into by the proprietor, manager, or superintendent of such house or establishment, or on his behalf, with any guardians, overseers, or other persons having the ordering or management of the poor in any union or parish, or for the education of any poor children therein, in like manner and to the same extent as the said commissioners are by law empowered to do in the case of any workhouse belonging to any union or parish; and all such rules, orders, and regulations shall have the like effect as other rules, orders, and regulations of the said commissioners, and shall be obeyed accordingly, with the like penalties on any neglect or disobedience thereof, to be enforced upon summary conviction, as penalties under the Poor Law Amendment Act, 1834, may now be enforced.

4 & 5 Will. 4, c. 76.

Nothing herein to extend to asylums, hospitals, &c.

II. Provided nevertheless, that nothing herein contained shall extend to any county lunatic asylum, or hospital registered or house licensed for the reception of lunatics, nor to any hospital, infirmary, school, or other institution, supported by public subscriptions, and maintained for purposes of charity only.

Regulations may be directed to any proprietor, manager, or officer of the house.

III. The said commissioners may direct their rules, orders, and regulations to any person being or acting as the proprietor, manager, or superintendent, or as an officer or assistant, in any such house or establishment as aforesaid, and the same shall come into operation so soon as the said commissioners shall therein declare, and shall be binding upon the person named therein, and, if they shall so direct, upon every person who shall afterwards succeed to him in the same capacity.

Power to prohibit the reception of poor persons, or any class of poor persons, in any such house.

IV. The said commissioners shall be empowered, if at any time they shall see just cause, to prohibit, by order under their seal, the reception or retention of any poor person, or any class of poor persons, in any such house or establishment, and thereupon it shall not be lawful for any such proprietor, manager,

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Sect. 1. Note.

Act, extended by sect. 10 of the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 10.

Orders have been made under this Act to regulate various establishments at Rottingdean and Margate. The order dated June 30th, 1886, made with regard to an establishment at Rottingdean will be found in Macmorran & Lushington's Poor Law Orders, p. 935.

Sect. 4. Note.

The order may be sent by post or in such way as the board think fit (4 & 5 Will. 4, c. 76, s. 18).

or superintendent, or other officer or assistant, to receive or retain any poor person therein, contrary to the terms of such order, so long as it shall be in force, nor for any guardians, overseers, or other such persons as aforesaid, to send any poor person to such house or establishment, contrary to such order; provided that no such guardians, overseers, or other such person as aforesaid, nor any officer, of any union or parish, shall incur any legal responsibility in respect of the neglect of such order until a copy thereof shall have been sent to the guardians of the union or parish, or to the overseers of the parish, or other such persons as aforesaid, in the manner in which orders of the said commissioners are now sent to guardians or overseers.

Power to remove any officer of such house.

V. The said commissioners may, by order under their seal, remove from his office or service any officer, servant, or assistant in any such house or establishment whom they shall deem unfit or incompetent to discharge the duties of his situation, or who shall at any time refuse or wilfully neglect to obey and carry into effect any of the rules, orders, or regulations issued by the said commissioners under their seal for the regulation of such house or establishment, or of the officers or inmates thereof; and thereupon such officer, servant, or assistant shall forthwith cease to act in his office, service, or employment, and shall be entitled to claim and recover a rateable proportion of his salary, wages, or other remuneration, up to the time of his being so removed, but no more, from the person liable to pay the same, subject to any defence of law which may then be open to the person from whom the same shall be claimed.

Poor Law Board orders regulating contracts with proprietors, &c. of such houses.

VI. The said commissioners may from time to time issue any order which they may deem necessary for regulating the mode in which any contract shall be entered into for the lodging, boarding, or maintenance of any poor person with the proprietor, manager, or superintendent of such house or establishment as aforesaid, or the terms or the duration of any such contract; and if after the issuing of any such order any contract or agreement be entered into with such proprietor, manager, or superintendent, or any person on his behalf, not in accordance with such order, the same shall be voidable, and, if the said commissioners shall so direct, the same shall be void and of no effect: and all payments made under or in pursuance of any contract or agreement not made and entered into in conformity with such order as aforesaid, at any time after the said commissioners shall have declared the same to be void as aforesaid, and shall have given notice of such declaration to the guardians, overseers, or other such persons as aforesaid, shall be disallowed in the passing and auditing of their accounts, or the accounts of any of their officers by whom such payments shall have been made or charged.

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Inspection of such houses.

VII. The said commissioners may, if they think fit, appoint a person, either temporarily or permanently, to visit any such house or establishment, and to inspect the same, and the poor persons received and maintained therein, and to make a report to such commissioners upon any visit and inspection; and such person shall be paid by the guardians or overseers, as the case may be, of the several unions or parishes from which poor persons shall have been sent, and shall be at the time of such visitation maintained therein, such remuneration as the said commissioners shall by order under their seal direct.

Power to justices to visit such houses.

4 & 5 Will. 4, c. 76.

VIII. It shall be lawful for any justice of the peace acting in and for the jurisdiction in which such house or establishment shall be situated to visit, inspect, and examine the same, at such times as he shall think proper, for the like purpose and with the same power as any justice has now, by virtue of the Poor Law Amendment Act, 1834, in respect of the workhouse of any union or parish; . . .

Construction. 4 & 5 Will. 4, c. 76.

IX. The several words used in this Act shall be construed in the same manner as in the Poor Law Amendment Act, 1834, and the statutes explaining and amending it: and all the provisions, enactments, and regulations contained in the said Act and the said subsequent statutes shall be extended to this Act, so far as the same may be applicable, and subject to the provisions herein contained.

Extent of Act.

X. This Act shall extend only to England and Wales.

[Sect. 11. Repealed by the S. L. R. Act, 1875.]

Sect. 8.

See sect. 43 of 4 & 5 Will. 4, c. 76, for the powers of justices as to visiting workhouses.

Note.

The latter part of this section empowering the General Board of Health to appoint superintending inspectors to visit the houses, &c., is repealed by the S. L. R. Act, 1875.

QUARTER SESSIONS ACT, 1849.*

12 & 13 VICT. CHAP. 45.

An Act to amend the Procedure in Courts of Quarter Sessions in England and Wales, and for the better Advancement of Justice in Cases within the Jurisdiction of those Courts.

[28th July, 1849.]

[*Preamble.*]

Notice of appeal to quarter sessions.

[I.] In every case of appeal (except as herein-after mentioned) to any court of quarter sessions fourteen clear days' notice of appeal at least shall be given, and such shall be sufficient notice, any Act or Acts, or any rule or practice of any court or courts, to the contrary notwithstanding; and such notice of appeal shall be in writing, signed by the person or persons giving the same, or by his, her, or their attorney on his, her, or their behalf, and the grounds of appeal shall be specified in every such notice: Provided always, that it shall not be lawful for the appellant or appellants, on the trial of any such appeal, to go into or give evidence of any other ground of appeal besides those set forth in such notice.

This Act not to affect appeals in certain matters.

II. None of the provisions herein-before contained relating to notices of appeal shall be construed to affect or alter the law as

* Better known as "Baines' Act."

Sect. 1.

Note.

This section is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4, so far as relates to any appeal against an order of a court of summary jurisdiction.

The effect of this repeal, coupled with the limitation upon the operation of this section contained in sect. 2, is practically to restrain the application of the section to rating appeals.

The fourteen days' notice required by this section is in lieu of the "reasonable notice" required by the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4.

Fourteen days must intervene between the day on which the notice is given and the first day on which the sessions are held (*Rex* v. *Herefordshire JJ.*, 3 B. & Ald. 581).

By the Union Assessment Committee Act, 1864 (27 & 28 Vict. c. 39), s. 1, twenty-one days' notice of appeal must be given to the assessment committee before the appeal can be *heard*. But if notice of such appeal is required to be given to a parish council or parish meeting in consequence of the Local Government Act, 1894, fourteen clear days' notice under this section will be sufficient in their case.

Sect. 2.

Note.

The length of notice in appeals against orders of removal is regulated by the Poor Relief Act, 1722 (9 Geo. 1, c. 7), s. 8, under which "reasonable notice" is required; and what is "reasonable notice" is determined by the practice of the sessions to which the appeal lies, varying from six to twenty-eight days (see *Reg.* v.

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to notice of appeal against a summary conviction, or against an order of removal, or against an order under any statute relating to pauper lunatics, or against an order in bastardy, or against any proceeding under or by virtue of any of the statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office, but the law with regard to notices of all such appeals shall be deemed and taken to be the same as if the provisions herein-before contained had not been enacted.

Certain objections not to prevail.

III. [*Recital.*] Upon the hearing of any appeal to any court of quarter sessions no objection on account of any defect in the form of setting forth any ground of appeal shall be allowed, and no objection to the reception of legal evidence offered in support of any ground of appeal shall prevail, unless the court shall be of opinion that such ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial: Provided always, that in all cases where the court shall be of opinion that any objection to any ground of appeal, or to the reception of evidence in support thereof, ought to prevail, it shall be lawful for such court, if it shall so think fit, to cause any such ground of appeal to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to such court shall appear just and reasonable.

Amendment.

Costs in frivolous or vexatious appeals.

IV. If in any notice of appeal the appellant or appellants shall have included any ground or grounds of appeal which shall in the opinion of the court determining the appeal be frivolous or vexatious, such appellant or appellants shall be liable, if the court shall so think fit, to pay the whole or any part of the costs incurred by the respondent or respondents in disputing any such ground or grounds of appeal, such costs to be recoverable in the manner herein-after directed as to the other costs incurred by reason of such appeal.

General powers as to costs of appeals.

V. Upon any appeal to any court of quarter sessions the court before whom the same shall be brought may, if it think fit,

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Sect. 2. Note.

Sussex JJ., [1865] 4 B. & S. 966; 34 L. J. M. C. 69; 11 Jur. (N. S.) 300; 11 L. T. (N. S.) 40).

Appeals against orders relating to pauper lunatics are regulated by the Lunacy Act, 1890 (53 & 54 Vict. c. 5), ss. 301—313, but no provision is made therein for the length of notice.

Sect. 5. Note.

Quarter sessions were empowered to give costs in appeals in settlement cases by 8 & 9 Will. 3, c. 30, s. 3, and in appeals

order and direct the party or parties against whom the same shall be decided to pay to the other party or parties such costs and charges as may to such court appear just and reasonable, Sect. 5.

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against poor rates by the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4. Both of these statutes are still in force. Sect. 5. Note.

When upon an appeal to quarter sessions against a poor rate, the court, under this section, directs the party against whom it is decided to pay to the other party his costs, such costs are to be recovered in the manner pointed out by sect. 27 of the S. J. Act, 1848 (11 & 12 Vict. c. 43), and an order of sessions directing such costs to be paid to the clerk of the peace, to be by him paid over to the party entitled to them, is good (*Gay* v. *Matthews*, 4 B. & S. 425; 33 L. J. M. C. 14; 9 Jur. (N. S.) 716; 8 L. T. (N. S.) 674; 11 W. R. 922. See also *Reg.* v. *Ely JJ.*, 5 E. & B. 489; 25 L. J. M. C. 1; 1 Jur. (N. S.) 1017).

But an order of sessions dismissing an appeal against a poor rate and ordering costs to be paid by the appellant to the respondent direct is also valid, and may be removed into the High Court under sect. 18 of this Act, and execution issued thereon (*Reg.* v. *Huntley*, 3 E. & B. 172; 7 C. L. R. 246; 23 L. J. M. C. 106; 18 Jur. 745).

Where an order of quarter sessions is silent as to costs a subsequent sessions has no jurisdiction to deal with the order so made by the prior sessions, or make an order for the payment of costs (*Reg.* v. *Staffordshire JJ.*, 7 E. & B. 935; 26 L. J. M. C. 175; 3 Jur. (N. S.) 1148).

Where an appeal has been brought to a court of quarter sessions which has no jurisdiction to hear or determine the appeal, the sessions may, nevertheless, under this section, give the respondents their costs (*Reg.* v. *Padwick*, 8 E. & B. 705; 27 L. J. M. C. 113; 30 L. T. 255; 8 W. R. 224; *Reg.* v. *Over*, 14 Q. B. 425; 19 L. J. M. C. 57; *Reg.* v. *Lancashire JJ.*, 43 L. J. M. C. 116; 30 L. T. (N. S.) 403; 22 W. R. 648).

Whether costs shall be awarded or not is a matter within the discretion of the sessions, but if awarded they must be awarded to the successful party. An order is generally necessary for the purpose, but where the standing orders of quarter sessions, which were known to both parties to the appeal, provided that unless the court should otherwise order the costs of appeal should follow the event, it was held that such order was sufficient without an express order for costs (*Freeman* v. *Read*, 9 C. B. (N. S.) 301; 30 L. J. M. C. 123; 7 Jur. (N. S.) 546). A general order of sessions, however, that in all appeals only a certain sum shall be allowed for costs is unreasonable, and the sessions ought to award a proper sum according to the circumstances of each case (*Reg.* v. *Glamorganshire JJ.*, 19 L. J. M. C. 172; 15 Jur. 697). Costs in discretion of sessions.

The taxation or ascertainment of costs is a judicial act, to be done by the court through the clerk of the peace as the officer of the court; and, therefore, in strictness the amount of the costs should be ascertained while the sessions are sitting, and inserted in the order. But the universal practice is for the parties to consent to tax out of sessions; though without such consent the clerk of the peace has no jurisdiction to entertain the question of taxation; and though there must be some evidence of consent, yet as the practice is so common, very slight evidence of consent will be sufficient (*Midland Rail. Co.* v. *Edmonton Union*, [1895] A. C. 485; Taxation out of sessions.

Sect. 5.

11 & 12 Vict. c. 43.

such costs to be recoverable in the manner provided for the recovery of costs upon an appeal against an order or conviction by the Summary Jurisdiction Act, 1848.

Costs where appeal is not prosecuted.

VI. And for the more effectual prevention of frivolous appeals, any court of quarter sessions, upon proof of notice of any appeal to the same court having been given to the party or parties

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Sect. 5. Note.

64 L. J. Q. B. 710; 72 L. T. 811; 60 J. P. 68; and also *per* Lord Halsbury, L.C., in C. A. [1895] 1 Q. B., p. 361). If a party attends the taxation without protesting, he waives his objection to the taxation being made out of sessions (*Ex parte Watkins*, 5 L. T. (N. S.) 605).

When an order is made for costs on an appeal and the sessions are adjourned, if the costs are meantime taxed, a formal order, including the amount of the costs, may be made at adjourned sessions (*Reg.* v. *Hampshire JJ.*, 33 L. J. M. C. 104; 9 L. T. (N. S.) 730; 12 W. R. 441). So, when an appeal was dismissed with costs at the October sessions, and the sessions were afterwards adjourned to November, and the costs were taxed at the adjourned sessions, it was held that they were rightly so taxed (*Rawnsley* v. *Hutchinson*, L. R. 6 Q. B. 305; 40 L. J. M. C. 97; 35 J. P. 501).

Parties liable to pay costs.

Where a poor rate was appealed against and the appeal was not defended by the successors of the overseers who made the rate, and the sessions quashed the rate and ordered the respondents to pay the costs, it was held that the new overseers were liable (*Ex parte Fletton*, 2 E. & E. 712; 29 L. J. M. C. 205; 6 Jur. (N. S.) 822; 8 W. R. 432).

In an appeal against a poor rate the appellant is entitled to apply to quarter sessions for an order allowing the appeal and giving him the costs thereof, although the respondents have reduced the assessment in question in the valuation list previously to such application in accordance with an agreement come to between the parties (*Warner* v. *Sunderland*, 48 J. P. 681).

If an assessment committee appear as respondents to an appeal without obtaining the consent of the guardians after notice sent to each guardian as prescribed by the Assessment Committee Act Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 2, they are not entitled to any costs (*West Ham Union* v. *Essex JJ.*, [1896] A. C. 443; 64 L. J. M. C. 39; 71 L. T. 832; 41 W. R. 183). And when notice of appeal has been served on the overseers and on the assessment committee, an unsuccessful appellant is only liable for one set of costs (*Reg.* v. *Essex JJ.*, [1894] 63 L. J. Q. B. 250; 71 L. T. 296).

The guardians are liable for the costs payable by an unsuccessful assessment committee, and not the individual members of the committee (*Leicester Waterworks Co.* v. *Nuttall*, 4 Q. B. D. 18; 48 L. J. M. C. 41; 39 L. T. (N. S.) 624; 27 W. R. 364).

Sect. 6. Note.

Under the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 5, in settlement cases a party making frivolous or vexatious statement of grounds of removal or appeal is liable to pay the costs of the opposite party in disputing such grounds.

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entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if it so think fit, at the same sessions for which such notice was given, order to the party or parties receiving the same such costs and charges as by the said court shall be thought reasonable and just, to be paid by the party or parties giving such notice, such costs to be recoverable in the manner last aforesaid.

Powers of amendment on appeal or *certiorari*.

VII. [*Recital.*] If upon the trial of any appeal to any court of quarter sesions against any order or judgment made or given by any justice or justices of the peace or if upon the return to any writ of *certiorari* any objection shall be made on account of any omission or mistake in the drawing up of such order or judgment, and it shall be shown to the satisfaction of the court that sufficient grounds were in proof before the justice or justices making such order or giving such judgment to have authorized the drawing up thereof free from the said omission or mistake, it shall be lawful for the court upon such terms as to payment of costs as it shall think fit, to amend such order or judgment, and to adjudicate thereupon as if no such omission or mistake had existed: Provided always, that no objection on account of any omission or mistake in any such order or judgment brought up upon a return to a writ of *certiorari* shall be allowed, unless such omission or mistake shall have been specified in the rule for issuing such *certiorari*.

Defective recognizances.

VIII. [*Recital.*] Where any recognizance or recognizances which shall have been entered into within the time by law required before any justice or justices for the purpose of complying with any such condition of appeal shall appear to the court before which such appeal is brought to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for such court, if it shall so think fit, to permit the substitution of a new and sufficient recognizance or new and sufficient recognizances to be entered into before such court in the place of such insufficient, defective, or invalid

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Note.

Where in an order relating to removal the borough justices who made the order were described as "justices for the borough of, &c.," and the order was removed into the Queen's Bench by *certiorari*, on the ground that the jurisdiction of the justices did not properly appear on the face of the order, the court amended the order by inserting the words "in and" before the words "for the borough, &c." (*Reg.* v. *Hellingley*, 28 L. J. M. C. 167; 5 Jur. (N. S.) 626; 23 J. P. 276). For amendment on *certiorari* of a bastardy order, see *Reg.* v. *Higham*, 26 L. J. M. C. 116; 22 J. P. 6.

An error to be amended under this section must be a formal one, "as the section only applies to a mistake in drawing up the order, and not to a mistake in point of substance" (*Reg.* v. *Padbury*, *per* Cockburn, C.J., 5 Q. B. D. 126; 49 L. J. M. C. 55; 28 W. R. 182; 44 J. P. 361).

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recognizance or recognizances, and for that purpose to allow such time, and make such examination, and impose such terms as to payment of costs to the respondent or respondents, as to such court shall appear just and reasonable; and such substituted recognizance or recognizances shall be as valid and effectual to all intents and purposes as if the same had been duly entered into at any earlier time or times, as required by any statute or statutes for that purpose.

Decisions of sessions, as to statement of grounds, amendment, or recognizances, to be final.

IX. The decisions of the court of quarter sessions upon the hearing of any appeal, as to the sufficiency of the statement of any ground or grounds of appeal, and as to the amending or refusing to amend any order or judgment of a justice or justices appealed against, or the statement of any ground or grounds of appeal, and as to the substitution of any new recognizance or recognizances as aforesaid, shall be final, and shall not be liable to be reviewed in any court, by means of a writ of *certiorari* or *mandamus*, or otherwise.

Amendment of indictments by quarter sessions.

X. Every court of quarter sessions on the trial of any offence within its jurisdiction, whenever any variance or variances shall appear between any matter in writing or in print produced in evidence and the recital or setting forth thereof in the indictment shall have the same power in all respects to cause the indictment to be amended which is given to courts of oyer and terminer and general gaol delivery with regard to offences tried before such last-mentioned courts by virtue of an Act of the twelfth year of Her Majesty's reign, intituled "An Act for the Removal of Defects in the Administration of Criminal Justice"; and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance or variances had appeared.

11 & 12 Vict. c. 46.

Special case, after notice given of

XI. At any time after notice given of appeal to any court of quarter sessions against any judgment, order, rate, or other

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Note.

This section embodies the decision of the Court of Queen's Bench in *Reg.* v. *Kesteven JJ.*, 3 Q. B. 810; 13 L. J. M. C. 78, which overruled previous decisions to the contrary.

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Note.

By the S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 40, no *certiorari* is needed to remove any order, &c., in relation to which a special case is stated by quarter sessions.

The provisions of this section do not affect the jurisdiction of the quarter sessions to state a case for the opinion of the High Court when any matter of difficulty arises before them, or to give judgment for either party subject to a case. As to this jurisdiction, see *Reg.* v. *Chantrell*, L. R. 10 Q. B. 587; 44 L. J. M. C. 94; 23 W. R.

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appeal to quarter sessions.

matter, (except an order in bastardy, or a proceeding under or by virtue of any of the statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) for which the remedy is by such appeal, it shall be lawful for the parties, by consent, and by order of any judge of one of the superior Courts of Common Law at Westminster, to state the facts of the case in the form of a special case for the opinion of such superior court, and to agree that a judgment in conformity with the decision of such court, and for such costs as such court shall adjudge, may be entered on motion by either party at the sessions next or next but one after such decision shall have been given; and such judgment shall and may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the court of quarter sessions upon an appeal duly entered and continued.

Arbitration after notice given of appeal to quarter sessions.

XII. [*Recital of* 9 *Will.* 3, *c.* 15, *as to arbitrations.*] At any time after notice given of appeal to any court of quarter sessions against any order, rate, or other matter, (except a summary conviction, or an order in bastardy, or any proceeding under or by virtue of any of the statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or

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707; the exercise of it is discretionary with the justices, and they cannot be compelled to state a case (*Reg.* v. *Walsall*, 3 Q. B. D., at p. 473, *per* Cockburn, C.J.).

By the Supreme Court of Judicature (Procedure) Act, 1894 (57 & 58 Vict. c. 16), s. 2, cases stated by quarter sessions otherwise than under this section [or under 11 & 12 Vict. c. 78, which applies to Scotland only] are to be deemed appeals, and the procedure in such appeals is regulated by the provisions of that Act, and no appeal lies to the Court of Appeal from the judgment of the High Court without leave. In cases stated by consent, however, under this section an appeal lies to the Court of Appeal from the High Court without leave (*Peterborough* v. *Willsthorpe Overseers*, 12 Q. B. D. 1; 53 L. J. M. C. 33; 50 L. T. 189; 32 W. R. 548; *Holborn Union* v. *Chertsey Union*, 15 Q. B. D. 76; 54 L. J. M. C. 137; 53 L. T. 656; 33 W. R. 698; 50 J. P. 36).

A case stated under this section, or at all events the order of the judge, should contain a statement that the parties had agreed that judgment might be entered at quarter sessions in conformity with the decision of the court, otherwise the case will be struck out of the paper (*Peterborough* v. *Thurlby, Overseers*, 8 Q. B. D. 586).

On the hearing in the High Court of a special case stated under this section with regard to a poor rate, counsel for the party in support of the rate is entitled to begin; and the practice is to hear only one counsel on each side (*Bedfordshire JJ.* v. *St. Paul, Bedford*, 7 Exch. 650; 21 L. J. M. C. 225); and counsel for such party is not entitled to reply (*Wigton* v. *Smith*, 16 Q. B. 496). Costs as between party and party are usually given to the successful party in the High Court on the argument of a special case stated under this section (*Earl of Clarendon* v. *St. James', Westminster*, 20 L. J. M. C. 213; 15 J. P. 340).

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Post Office,) for which the remedy is by such appeal, it shall be lawful for the parties, by themselves or their attornies, and by order of a judge of Her Majesty's Court of Queen's Bench, to submit the matter or matters of such appeal to the award or umpirage of any person or persons . . . and every award or umpirage duly made under this Act shall be as binding and effectual to all intents as if the same had been a regular judgment of the said court of quarter sessions, and shall and may, on the application of either party, be enrolled among the records of the said court of sessions.

Arbitration by order of court of quarter sessions.

XIII. It shall be lawful for any court of quarter sessions before which any appeal (except against a summary conviction, or an order in bastardy, or any proceeding under or by virtue of any of the statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) shall be brought, to order, with consent of the parties or their attornies,

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Note.

Before this statute the validity of a rate was a matter which was not legally capable of being decided by arbitration (*Thorpe* v. *Cole*, 1 M. & W. 531; 5 L. J. Exch. 25).

Stating case.

If the subject-matter of the appeal be referred to arbitration under sects. 12 or 13 of this Act, the arbitrator may state a special case upon any question of law arising in the reference for the opinion of the High Court in pursuance of sect. 19 of the Arbitration Act, 1889 (52 & 53 Vict. c. 49). But the arbitrator must in the case stated by him find the facts affirmatively and not in the alternative, otherwise it will be remitted to him to be re-stated (*North and South Western Junction Rail. Co.* v. *Brentford Union*, 13 App. Cas. 592; 58 L. J. M. C. 95; 60 L. T. 274). And where an umpire had made his award in the matter of a poor rate, and afterwards, at the request of the appellants, stated the principles on which he had decided in order that the question might be reviewed by the court, the court refused to send the matter back to the umpire to state the facts fully, as the appellants had had the opportunity of getting a case stated, and instead of doing so had taken the chance of getting an award in their favour (*London Dock Co.* v. *Shadwell*, 32 L. J. Q. B. 30).

Costs.

The order as to arbitration may deal with the costs; but if it be silent on the matter of costs it has been held that the arbitrator has no power to award them (*West London Extension Rail. Co.* v. *Fulham Union*, L. R. 5 Q. B. 361; 39 L. J. Q. B. 178; 22 L. T. 523); nor can a subsequent court of quarter sessions award the costs of the arbitration (*Reg.* v. *Yorks W.R. JJ.*, [1865] 6 B. & S. 531; 12 Jur. (N. S.) 162): nor can a subsequent court of quarter sessions give any costs of the appeal (*Reg.* v. *Middlesex JJ.*, or *West London Extension Rail. Co.* v. *Fulham Union*, L. R. 6 Q. B. 220; 40 L. J. M. C. 109; 24 L. T. (N. S.) 131; 19 W. R. 744): but if the order of reference gives the arbitrator power over the costs, taxation of the costs may take place after the sessions at which the award is entered as the judgment of the court, if such be the usual practice, and no objection has been raised at the time (*Southampton Gaslight and Coal Co.* v. *Southampton Guardians*, 2 Q. B. D. 371; 46 L. J. M. C. 238; 36 L. T. (N. S.) 548).

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that the matter or matters of such appeal be referred to arbitration, to such person or persons and in such manner and on such terms as the said court shall think reasonable and proper; . . . and the award of the arbitrator or arbitrators, or umpirage of the umpire, may, on motion by either party at the sessions next or next but one after such award or umpirage shall have been finally made and published, or after the decision of the Court of Queen's Bench on any motion for setting aside the same, be entered as the judgment of the court of quarter sessions in the appeal, and shall be as binding and effectual to all intents as if given by the said court.

Where reference becomes abortive, Court of Queen's Bench may order quarter sessions to hear the appeal.

XIV. If upon any reference to arbitration under this Act it shall be made to appear to the Court of Queen's Bench that, either from the death of the arbitrator or arbitrators, or umpire, or from any other cause, it has become impossible than an award or umpirage can be made, it shall be lawful for the said court to order the court of quarter sessions to enter continuances and hear the appeal.

[Sect. 15. *Application of* 3 & 4 *Will.* 4, *c.* 42, *to references under this Act:* Repealed by the S. L. R. Act, 1891. The Arbitration Act, 1889 (52 & 53 Vict. c. 49), is now applicable to arbitrations under this Act.]

Recognizances not to be forfeited by statement of special case or submission to arbitration.

XVI. No recognizance entered into pursuant to any statute or statutes for the prosecution and trial of any appeal shall be deemed to be forfeited by such agreement as aforesaid for the statement of a special case without previously going to the court of quarter sessions, or by any submission to arbitration under the provisions of this Act.

3 Geo. 4, c. 46.

Recovery of fines, &c. imposed by justices.

XVII. And whereas by the Levy of Fines Act, 1822, provision is made for authorizing the levying and recovery of fines, issues, amerciaments, and forfeited recognizances, set, imposed, lost, or forfeited by or before any justice or justices of the peace in England: And whereas it is expedient that the subsequent proceedings in such cases should be uniform: Be it enacted, that the proceedings subsequent to such authority given for so levying and recovering as aforesaid shall and may be the same in all respects, in the case of such fines, issues, and amerciaments, as are by the said Act provided, permitted, and required in the case of such forfeited recognizances.

Enforcement of orders after removal by *certiorari*.

XVIII. In all cases where any order shall be made by any court of quarter sessions, it shall be lawful for the Court of Queen's Bench, or for any judge of that court at chambers,

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Note.

As to enforcing orders for costs under this section, see *Reg.* v. *Huntley* and *Ex parte Fletton*, *supra*, pp. 815, 816.

When an order is removed under this section for the purpose of being enforced, the party affected by it may make an application

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upon the application of any person entitled to enforce such order, and upon the production of a copy of such order under the hand of the clerk of the peace or his deputy, and upon proof of refusal or neglect to obey such order, to order and direct such order of the court of quarter sessions to be removed into the said Court of Queen's Bench, and thereupon such order shall be of the same force and effect, and may be enforced in the same manner as a rule made by the said Court of Queen's Bench; and all the reasonable costs and charges attendant upon such application and removal shall be recoverable in like manner as if the same were part of such order.

Extent of Act.

XIX. Nothing in this Act contained shall extend to Scotland or Ireland.

[Sects. 20, 21. Repealed by the S. L. R. Act, 1875.]

POOR LAW (JUSTICES JURISDICTION) ACT, 1849.

12 & 13 VICT. CHAP. 64.

An Act to remove Doubts as to the Authority of Justices of the Peace to act in certain Matters relating to the Poor in Cities and Boroughs. [28th July, 1849.]

[Preamble recited the Poor Relief Act, 1601 (43 Eliz. c. 2), and that doubts existed whether the powers thereby given to justices for counties to act in certain matters relating to the poor extended to borough justices.]

Powers of borough justices as to poor.

[I.] Notwithstanding anything in the said Act contained, all powers and authorities which by the said Act may be exercised out of general or quarter sessions by two or more justices of any county may be exercised within any city or borough by any two or more justices of the peace having jurisdiction within such city or borough respectively, as fully in all respects as by the justices of the county in or for any parish of such county.

[Sects. 2, 3. Repealed by the S. L. R. Act, 1875.]

Sect. 18. Note.

to the court, objecting to the order as bad on the face of it, to restrain the other party from enforcing it (*Reg.* v. *Hellier*, 17 Q. B. 229; 21 L. J. M. C. 3; 15 Jur. 901; 15 J. P. 675; *Reg.* v. *Hyde*, 21 L. J. M. C. 94; 16 J. P. 67).

Sect. 1. Note.

For the jurisdiction of borough justices to appoint overseers, see the Poor Law (Overseers) Act, 1849 (12 & 13 Vict. c. 8), s. 1.

This section is further explained by the Justices Jurisdiction Act, 1852 (15 & 16 Vict. c. 38).

POOR LAW AMENDMENT ACT, 1849.

12 & 13 VICT. CHAP. 103.

An Act . . . to make certain Amendments in the Laws for the Relief of the Poor.* [1st August, 1849.]

[Preamble recited the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110).]

[Sect. 1. *Continuing certain temporary provisions of* 11 *&* 12 *Vict. c.* 110. Sect. 2. *Defining "destitute foundling":* Repealed by the S. L. R. Act, 1875.]

Effect of chargeability to common fund.

III. The chargeability of any person to the common fund of a union shall have the same effect and shall be attended with the same consequences as the chargeability of any poor person to a parish, in respect of proceedings to be taken . . . under the statutes for the removal from England of poor persons born in Scotland or Ireland, or in the Isle of Man, or Scilly, Jersey, or Guernsey, or under the statutes for the removal of lunatic paupers to asylums, or under any statute against unlawfully causing or procuring the removal of any poor person.

Removal of lunatic to asylum, or of a pauper to the workhouse of the union, not to be deemed an interruption of the residence under 9 & 10 Vict. c. 66.

IV. The removal of any lunatic pauper to an asylum, licensed house, or registered hospital, under the authority of the statutes in that behalf, or of any pauper, otherwise than under an order of removal, from his place of abode in any parish of a union to the workhouse of such union, shall not be deemed to be an interruption of the residence of such pauper within the meaning of the Poor Removal Act, 1846; but the time spent in such lunatic asylum, licensed house, or registered hospital or workhouse respectively, and the time during which any person shall

* For "Poor Law Commissioners" and "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 3. Note.

The statutes relating to the removal from England of poor persons born in Scotland, &c., are the Poor Removal Act, 1845 (8 & 9 Vict. c. 117); the Poor Removal Act, 1847 (10 & 11 Vict. c. 33), ss. 1, 3; the Poor Removal (No. 2) Act, 1861 (24 & 25 Vict. c. 76); the Poor Removal Act, 1862 (25 & 26 Vict. c. 113); and the Poor Removal Act, 1863 (26 & 27 Vict. c. 89).

The statutes relating to the removal of lunatic paupers to asylums are the Lunacy Act, 1890 (53 & 54 Vict. c. 5), and the Lunacy Act, 1891 (54 & 55 Vict. c. 65).

The enactment relating to unlawful removals is the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 6.

Sect. 4. Note.

By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 286 (2), every pauper lunatic who is chargeable to a union shall, while he resides in an institution for lunatics, be deemed for the purposes of his settlement to be resident in the union to which he is chargeable.

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be relieved at the charge of the common fund of the union, shall be wholly excluded from the computation of the time of residence which, according to the provisions of such statute, will exempt a poor person from being removed.

[Sect. 5. *As to costs of maintenance of lunatic paupers:* Repealed by 16 & 17 Vict. c. 97, s. 102, which is now repealed by the Lunacy Act, 1890.]

No person to be appointed overseer who is interested in certain contracts.

VI. No person shall be qualified to be appointed to be an overseer of the poor in any parish who at the time of the proposed appointment shall be engaged or directly or indirectly concerned in any contract for the supply of goods, wares, materials, or provisions for the workhouse, or for the relief of the poor, in such parish, or in the union comprising such parish: Provided always, that no rate or assessment made, nor any other act or thing done, by such person as overseer, nor the service of any notice, demand, order, or process upon him as such, shall, if in other respects legal and sufficient, be deemed invalid by reason only of such disqualification.

VII. Where the guardians of any union or parish shall make any order for the payment of money upon overseers or other officers of any parish upon whom they are empowered by law to make it, and a copy of such order shall be served upon any one of such overseers or other officers, it shall be lawful for the said guardians to enforce such order against the person so served, as fully and as effectually as if a copy thereof had been also served upon every one of such overseers or other officers.

[Sect. 8. *As to appointment of temporary auditors:* Repealed by 42 & 43 Vict. c. 6, s. 11.]

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Note.

The following classes of persons are also disqualified for serving the office of overseer, and the appointment of any such person is void: Masters of workhouses and relieving officers (13 & 14 Vict. c. 101, s. 6); assistant overseers of any parish (29 & 30 Vict. c. 113, s. 10); persons convicted of felony, fraud, or perjury (4 & 5 Will. 4, c. 76, s. 48); former officers convicted of purloining, embezzling, or wilfully wasting or misapplying any monies or goods of the parish or union (*Ib.*, s. 97); persons adjudged bankrupt, the disqualification lasting for five years after discharge, unless the adjudication is annulled, or a court grants a certificate on discharge that the bankruptcy was caused by misfortune without misconduct (46 & 47 Vict. c. 52, s. 32; and 53 & 54 Vict. c. 71, s. 9); persons convicted or candidates reported guilty of corrupt practices at parliamentary or municipal elections, for seven years from date of conviction or report (46 & 47 Vict. c. 51, ss. 3, 4, 64; and 47 & 48 Vict. c. 70, ss. 2, 3).

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Note.

For the enforcement of contribution orders, see the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1; and for the penalty on overseers neglecting to comply with contribution orders, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 63.

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IX. [*Recital of* 11 *&* 12 *Vict. c.* 43, *s.* 11, *and of doubts whether the provisions of that section apply to proceedings by auditors to recover sums certified by them to be due in the accounts of officers or other persons.*] Nothing in the provision of the said Act herein recited shall be deemed to apply to any such proceeding by any auditor; but no auditor shall commence any such proceeding after the lapse of nine calendar months from the disallowance or surcharge by such officer, or, in the event of an application by way of appeal against the same to the Court of Queen's Bench or to the Poor Law Board, after the lapse of nine calendar months from the determination thereupon.

Recited provision not to apply to proceedings by auditors.

X. In the case of the prosecution of any information, or the proceeding for any penalty or forfeiture, or for enforcing any order, under the Poor Law Amendment Act, 1834, or of any subsequent statute incorporated therewith, where judgment shall be given against the defendant, and the justices shall order or direct such defendant to pay the costs, such costs shall, in addition to other costs lawfully chargeable, include all such costs and expenses incurred in respect of such prosecution or the laying of such information, or the preferring of the complaint, or the making of the application, and the attendance of the party, or his counsel or attorney, and the summoning and attendance of the witnesses required to prove the case, as the justices shall think fit to allow, and find to have been reasonably and properly incurred.

Costs against defendants in proceedings for penalties, &c.

4 & 5 Will. 4, c. 76.

XI. Where any auditor shall lay any information for a penalty, in consequence of the default of any officer or other person to

Costs of auditors on informations

Sect. 9.

Note.

As to the recovery by auditors of sums certified to be due, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32, and the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 11. As to appeals to the High Court, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 35; and as to appeals to the Local Government Board, see the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 4.

Sect. 10.

Note.

For the proceedings mentioned in this section, see sect. 99 of the Poor Law Amendment Act, 1834, and sect. 32 of the Poor Law Amendment Act, 1844. Costs for enforcing orders of sessions after *certiorari* into the High Court are allowed by the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 18.

A poor law auditor was allowed out of the poor rates his costs of proceedings for the recovery of monies surcharged by him in the accounts of an assistant overseer, although the proceedings proved abortive and mistaken on his part, on the ground that he was a public officer acting to the best of his judgment in the discharge of his duty (*Prest* v. *Royston Union*, 33 L. T. (N. S.) 564; 24 W. R. 174).

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Note.

For the matters referred to in this section, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32, 33.

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for default of due attendance at audit, &c.

attend the audit, or the adjournment thereof, or to produce the proper account or vouchers, or to make or sign the proper declaration before him, the costs incurred by such auditor, when not recovered from the defendant in such information, shall, if the Poor Law Board consent thereto, be payable to such auditor, and be chargeable in like manner as the costs incurred by an auditor in enforcing the payment of sums certified by him to be due.

Validity of acts done under orders of commissioners or board after copies of such orders shall have been sent.

XII. [*Recital of 4 & 5 Will. 4, c. 76, s. 20, as to orders of the Poor Law Commissioners.*] Nothing in the said Act contained shall be taken to invalidate any act or proceeding heretofore or hereafter to be done or taken in conformity with any order of the said commissioners or of the Poor Law Board, by the person or persons to whom the same shall have been or shall be addressed, although the period of fourteen days shall not have elapsed from the sending of the copies of the said order when any such act shall have been done or proceeding taken.

Limitation of time for *certiorari*.

XIII. No writ of *certiorari* shall be granted, issued forth, or allowed, to remove into the Court of Queen's Bench any order, rule, or regulation of the Poor Law Commissioners, or of the Poor Law Board, . . . unless such *certiorari* be moved or applied for . . . within twelve months next after the day when the copy thereof shall be sent in the manner required by the several statutes in that behalf.

Guardians may in certain cases receive in their workhouses poor persons belonging to another union or parish.

XIV. Where the workhouse of any union or parish shall be governed and regulated by rules, orders, or regulations of the Poor Law Commissioners or of the Poor Law Board, the guardians of the union or parish to which such workhouse belongs, in case of the overcrowding of the workhouse of any other union or parish, or the prevalence or reasonable apprehension of any epidemic or contagious disease, or in and towards carrying out any legal resolution for the emigration of poor persons, may, with the consent of the Poor Law Board, receive, lodge, and maintain in the first-mentioned workhouse, upon

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Sect. 13. Note.

The removal of poor law orders and regulations by *certiorari* is provided for by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 105, 106. In the case of general orders the limitation of time will be twelve months from the publication of the order in the *Gazette*. (See 35 & 36 Vict. c. 79, sect. 48, re-enacted in the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 343 and Schedule V., Part III.)

Sect. 14. Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 22, the provisions of this section are extended to the managers of a district or other asylum for the reception of paupers, and to every case where the Local Government Board may deem it expedient and give their consent. See also the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 6, as to contracts of guardians for the reception of poor children in the workhouses, &c., of other unions.

such terms as shall be mutually agreed upon by the respective boards of guardians, any poor person belonging to such other parish or union; and such poor person so received into such first-mentioned workhouse shall while therein be treated in all respects in like manner, and be subject to the same regulations and liabilities, as the other poor persons therein, and shall be deemed to be chargeable in the first instance to the common fund of the union or to the parish in the workhouse whereof such poor person shall be received: Provided always, that the abiding of any such poor person in such workhouse shall in all other respects be attended with the same legal consequences as if such workhouse had been situated within the union or parish from which such poor person shall have been sent. Sect. 14.

Indictments against collectors or assistant overseers.

XV. [*Recital that guardians of certain unions were empowered to appoint collectors and assistant overseers, and that difficulty had arisen as to the proper description of their office in indictments, &c., for embezzlement or larceny.*] In respect of any indictment, or other criminal proceeding, every collector or assistant overseer appointed under the authority of any order of the Poor Law Commissioners or the Poor Law Board shall be deemed and taken to be the servant of the inhabitants of the parish whose money or other property he shall be charged to have embezzled or stolen, and shall be so described; and it shall be sufficient to state any such money or property to belong to the inhabitants of such parish, without the names of any such inhabitants being specified.

Guardians may appropriate money

XVI. Where any pauper shall have in his possession or belonging to him any money or valuable security for money,

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Note.

Collectors or assistant overseers are appointed under authority of orders of the Local Government Board by virtue of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 61, 62. An assistant overseer appointed under the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 7, is to be deemed the servant of the inhabitants of the parish, and may be so described in an indictment for embezzling monies received for rates (*Reg.* v. *Carpenter*, L. R. 1 C. C. R. 29; 35 L. J. M. C. 169; 12 Jur. (N. S.) 380; 14 L. T. (N. S.) 572). And the same remark applies to an assistant overseer appointed by a parish council under the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (1) (*Reg.* v. *Smallman*, [1897] 1 Q. B. 4; 66 L. J. Q. B. 82; 75 L. T. 394).

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Note.

For the recovery of relief given to soldiers and their families, see the Army Act, 1881 (44 & 45 Vict. c. 58), ss. 138 (8), 145, as amended by the Army (Annual) Act, 1891 (54 & 55 Vict. c. 5), s. 7; and for recovery of relief given to seamen and their families, see the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), ss. 182, 183. By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 23, as amended by the Poor Law Amendment Act, 1879 (42 & 43 Vict. c. 12), s. 1, trustees may pay the cost of a pauper's relief out of an annuity payable to such pauper.

A judgment obtained in an action for damages for personal

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or securities of paupers to reimburse the cost of their relief and burial.

the guardians of the union or parish within which such pauper is chargeable may take and appropriate so much of such money or the produce of such security, or recover the same as a debt before any local court, as will reimburse the said guardians for the amount expended by them, whether on behalf of the common fund or of any parish, in the relief of such pauper,

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Note.

injuries signed in favour of the plaintiff in such action whilst he is in the receipt of relief from a board of guardians is a "valuable security for money belonging to him" within the meaning of this section, so as to render him liable in an action at the suit of the guardians under this section to reimburse them the amount expended by them in his relief during the twelve months prior to their bringing such action (*West Ham Union* v. *Ovens*, L. R. 8 Ex. 37; 42 L. J. M. C. 29; 27 L. T. (N. S.) 616; 36 J. P. 776).

The provisions of this section constitute the guardians ordinary, and not preferential, creditors of a deceased pauper for the amount expended by them during the twelve months previous to his decease; and the executor of such a pauper is therefore entitled to retain a debt due from the pauper's estate to himself before satisfying the claim of the guardians (*Laver* v. *Botham & Sons*, [1895] 1 Q. B. 59; 64 L. J. Q. B. 110; 71 L. T. 570; 43 W. R. 25; 59 J. P. 454).

A woman had, for more than six years prior to her death, been supported as a pauper lunatic at the county asylum, and during the whole of this period had been entitled to, but had not been paid, an annuity of 24*l*. 16*s*. 6*d*., a fact which the guardians only discovered after her death. It was held that the claim of the guardians to reimbursement was not limited to the period of twelve months prescribed by this section, but that in respect of that period they were entitled absolutely to repayment, and as to a further period of five years, making six years in all, they were entitled to come in and claim as ordinary creditors (*Lambeth Guardians* v. *Bradshaw*, 57 L. T. 86; 50 J. P. 472).

If the pauper is a lunatic the expenses of his relief can be recovered against his estate under the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 299).

Administration of the estate and effects of a pauper lunatic dying intestate may be granted to a nominee of the guardians as creditors of the deceased. The Queen's Proctor and the next of kin must, as a general rule, be cited (*Reeves, In the Goods of*, 55 J. P. 24; *Lillicraft, In the Goods of*, 55 J. P. 825). Where a testatrix who had been in receipt of relief left a duly executed will, but appointed no executor, administration with the will annexed was granted to the clerk of the guardians (*Baldwin, In the Goods of*, 55 J. P. 344). Where a pauper lunatic died leaving as next of kin three brothers and one sister, all of whom renounced their right to administration, and also another brother who had gone abroad and had not been heard of for several years, the court ordered the brother abroad to be cited by advertisement and then granted administration to the clerk of the guardians (*Byrne, In the Goods of*, 52 J. P. 281). Where a widow died in the county asylum intestate and without issue and her father renounced the right to a grant of administration, the grant was made to the nominee of the guardians without citing the next of kin of the intestate (*Everley, In the Goods of*, [1892] P. 50; 61 L. J. P. & D. 53; 65 L. T. 765).

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during the period of twelve months prior to such taking and appropriation, or prior to such proceeding for the recovery thereof (as the case may be); and in the event of the death of any pauper having in his possession or belonging to him any money or property, the guardians of the union or parish wherein such pauper shall die may reimburse themselves the expenses incurred by them in and about the burial of such pauper, and in and about the maintenance of such pauper at any time during the twelve months previous to the decease.

Burial of persons in receipt of relief dying out of union, &c.

XVII. It shall be lawful for the guardians of any union or parish to pay the costs of the burial of any poor person dying out of the limits of such union or parish who was at the time

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Note.

Administration of the estate and effects of intestates, whether lunatic or sane, may be granted to the nominee of guardians for the use and benefit of the lunatic next of kin of the deceased who is being maintained as a pauper by the guardians. A widow died intestate, leaving a daughter, the only person entitled to the distribution of her effects. The daughter had been for some years in the county asylum, maintained at the charge of Mile End Old Town, and no committee of person or estate had been appointed. The mother left a sum of money, principally in the funds, in the name of her late husband, under whose will she was entitled to it. After the proper citations, to which there was no appearance, the court granted administration of the goods of the mother to the clerk to the guardians of Mile End Old Town, for the use and benefit of the lunatic, limited to the period of her lunacy, but required an inventory and justified security (*Mile End Old Town* v. *Findlay*, 3 Sw. & Tr. 265; 33 L. J. P. M. & A. 21; 9 L. T. (N. S.) 346; 9 Jur. (N. S.) 1253; S. C. *Southwell* v. *Findlay*, 27 J. P. 760).

A pauper lunatic died intestate in the county asylum, leaving a sister, his only next of kin, who was also a lunatic maintained in the workhouse. The court refused to make a grant until the next of kin of the sister had been cited, and then granted administration to the clerk of the guardians of the estate and effects of the deceased for the use and benefit of the sister during the period of her lunacy, on the usual securities being given (*Windeatt* v. *Sharland*, L. R. 2 P. & D. 217; 41 L. J. P. & M. 9; 23 L. T. (N. S.) 877; *In the Goods of Sharland*, L. R. 2 P. & D. 266; 25 L. T. (N. S). 514).

The husband of a deceased intestate was a lunatic pauper in a county asylum. Notice having been given to the lunatic's father, his next of kin, and no appearance being entered, a grant was made to the guardians for the use and benefit of the lunatic limited to such time as he should remain insane (*Eccles, In the Goods of*, 15 P. D. 1; 61 L. T. 652; 54 J. P. 55).

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Note.

Guardians are not bound to bury a pauper dying in a parish within the union, but not in any parish or union house; but they must provide for the interment of any person dying in a parish or union house (*Reg.* v. *Stewart*, 12 A. & E. 773; 4 P. & D. 349). They are, however, empowered, if they think fit, to bury the body of any poor person dying within the parish or union at the expense of the union (Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 31, amended by the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1). And in the event of any such person having any money or property

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of the death in the receipt of relief from such guardians; and the cost of burying any poor person by or under the direction of any guardians or overseers shall be recoverable in like manner, and from the same parties, as the cost of any relief (if given to such person when living) would have been recoverable.

4 & 5 Will. 4, c. 76, s. 23.

XVIII. And whereas by the Poor Law Amendment Act, 1834, the Poor Law Board are empowered, by and with the consent in writing of a majority of the guardians of any union, or with the consent of a majority of the ratepayers and owners of property entitled to vote in any parish, by writing under their hand and seal, to make certain orders for the building, purchasing, hiring, enlarging, or altering of a workhouse: And whereas in many parishes, not comprised in any union, the affairs relating to the relief of the poor are managed by a select vestry, or by guardians appointed or elected under the authority of some local Act, and in such parishes it is difficult to obtain the opinion of the ratepayers and owners of property upon any such question: Be it therefore enacted, that in any parish where there shall be a select vestry lawfully appointed, or a board of guardians appointed under any local Act, the consent in writing of the major part of the select vestry, or of the guardians, as the case may be, shall be sufficient to enable the Poor Law Board to issue any order, rule, or regulation in all such cases as are herein-before referred to, where the consent of the ratepayers and owners of property would but for this provision have been requisite: Provided that where in any parish there shall be a select vestry, and also a board of guardians, the consent in writing of the major part of the vestry or guardians shall be sufficient, according as such vestry or guardians respectively shall by law be empowered to carry the directions of the said board into execution.

Select vestry or board of guardians under local Acts may consent to orders of Poor Law Board for building, &c. of workhouse.

At meeting of guardians, chairman to have casting vote.

XIX. In the case of an equality of votes upon any question at a meeting of the guardians of any union or parish, the presiding chairman at such meeting shall have a second or casting vote.

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in his possession or belonging to him, they may under the provisions of this section reimburse themselves the expenses.

Note.

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As to proceedings of boards of guardians acting under local Acts see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 64.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (1), the consent of owners and ratepayers of a parish under any Act relating to the relief of the poor, so far as respects the dealing with parish property or spending of money or raising a rate, may, in a rural parish, be given by the parish meeting.

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By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 59 (1), the proceedings at meetings of guardians are now regulated by

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Advances by guardians for emigration.

XX. The guardians of any union, or of any separate parish for which a board of guardians is or shall be established, may expend, with the order and subject to the rules and regulations of the Poor Law Board, but not otherwise, any sum of money, not exceeding ten pounds for each person, in and about the emigration of poor persons having settlements in such parish, or in any parish in such union respectively, without the necessity of the ratepayers and owners of property therein meeting and giving their consent (as required by the Poor Law Amendment Act, 1834) to such expenditure, and such guardians shall charge the same to the parish of the settlement, in every case where such poor person resided therein or was removable thereto at the time of the emigration: Provided always, that the guardian or (if more than one) a majority of the guardians of such last-mentioned parish shall express his or their concurrence in writing in the resolution of the board of guardians for such expenditure, and that such written concurrence shall be transmitted by the clerk of the union in communicating that resolution to the Poor Law Board: Provided also that the aggregate amount of the monies expended in the course of any one year in and about the emigration of such poor persons shall not exceed one half the average yearly poor rate raised in the said parish for the three preceding years.

4 & 5 Will. 4, c. 76.

Interpretation and construction.

4 & 5 Will. 4, c. 76.

XXI. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the statutes explaining and extending it; and the Commissioners for Administering the Laws for Relief of the Poor in England may be described in all instruments, documents, and proceedings in courts of law or otherwise, and may execute all

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Note.

sect. 199 and schedule I. of the Public Health Act, 1875, so far as that schedule is unrepealed. That schedule (clause 8) also provides that in case of an equal division of votes the chairman shall have a second or casting vote.

The chairman ought to vote. If, when twenty-two guardians are present, he does not vote, and a resolution is carried by eleven to ten, such resolution is not carried by a "majority of the guardians present," and is void (*Reg.* v. *Griffiths*, 19 Q. B. 164; 15 J. P. 450).

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Note.

The consent of the ratepayers and owners was regulated by sect. 62 of 4 & 5 Will. 4, c. 76. See also as to emigration of poor persons the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 29; the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 5; and the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 4. The emigration of children from reformatories and industrial schools is provided for by the Reformatory and Industrial Schools Act, 1891 (54 & 55 Vict. c. 23), s. 1.

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Note.

See now the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), for change in the designation of the Poor Law Board.

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powers and authorities from time to time vested in them, by the name of "The Poor Law Board," and by such name shall be understood in this Act; and all the provisions of the said last-mentioned Act, and of the said statutes not repealed shall extend to this Act, except where any such provision would be inconsistent with anything herein contained.

Extent of Act.

XXII. This Act shall extend only to England and Wales.

[Sect. 23. Repealed by the S. L. R. Act, 1875.]

PARISH CONSTABLES ACT, 1850.

13 & 14 VICT. CHAP. 20.

An Act to amend an Act of the Fifth and Sixth Years of Her present Majesty, for the Appointment and Payment of Parish Constables. [10th June, 1850.]

[Preamble recited the Parish Constables Act, 1842 (5 & 6 Vict. c. 109).]

Provisions of recited Act in case of vacancy by death extended to discharge of parish constables.

[I.] The provisions in the said recited Act made in case of vacancy by death or disqualification of any constable during his year of office shall be extended to the discharge of any constable which shall take place under the powers of the said recited Act.

Fees and allowances to constables for execution of orders and occasional duties.

II. And whereas it is by the said recited Act enacted, that certain fees and allowances, to be settled by justices in general or quarter sessions assembled, shall be paid to constables for the service of summonses and execution of warrants: Be it enacted, that the said fees and allowances so settled by the justices in general or quarter sessions, and approved by a Secretary of State, as in the said recited Act is required, shall in like manner be paid to the said constables for the execution of any order of a justice made in writing, or for the performance of any occasional duties, the same being sanctioned and allowed by justices in petty session assembled.

[Sect. 3. *As to filling up vacancies on resigation or death:* Repealed by the S. L. R. Act, 1875.]

Sect. 2. Note.

The enactment referred to is contained in sect. 17 of 5 & 6 Vict c. 109.

For the allowance by auditors of the sums paid in pursuance of this section, see the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 6.

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IV. And whereas it is by the said recited Act enacted, that due notice shall be given to justices to hold special sessions for the appointment of parochial constables, but it is not stated by whom such notice shall be given: Be it enacted, that such notice shall be given by the clerk or clerks to the said justices.

Notices for holding special sessions for appointment of constables to be given by clerks to justices.

V. And whereas it is by the said recited Act enacted, that certain persons therein named shall be freed and exempt from serving the office of constable under the said Act: Be it enacted, that the said exemption shall extend to all postmasters and persons employed in the business of the Post Office.

Exemption of Post Office servants.

[Sect. 6. Repealed by the S. L. R. Act, 1875.]

VII. Nothing herein contained shall be taken to prevent the appointment of special constables, or to apply to the city of London or the metropolitan police district, or to any borough which is within the provisions of the Municipal Corporations Act, 1835, or of any charter granted in pursuance of that Act, or of any Act made for the amendment thereof, or to any parish, town, or place in which rates are or shall be levied for the payment of constables under the provisions of the Lighting and Watching Act, 1833, or of any local Act specially applying to such parish, town, or place; and nothing herein-before contained shall be taken to apply to the county palatine of Chester.

Savings and exceptions.

5 & 6 Will. 4, c. 76.

3 & 4 Will. 4, c. 90.

VIII. . . . the justices in general or quarter sessions assembled shall in each year, at the time of making up their accounts for the year, ascertain what proportion any expenses that have been incurred during the preceding year under this or the said recited Act shall bear to the gross amount of the county rate expended within the same period, and also what proportion of the said county rate has been levied within the metropolitan police district, and shall repay to each parish within the said metropolitan police district such proportion of the sums so levied as they shall ascertain to be a like proportion of the sums expended under this Act out of the county rate.

Repayment to parishes within police district of a portion of the sums paid by them to the county rate.

[Sect. 9. Repealed by the S. L. R. Act, 1875.]

Sect. 4.

See 5 & 6 Vict. c. 109, s. 1.

Note.

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See 5 & 6 Vict. c. 109, s. 6.

Note.

VESTRIES ACT, 1850.

13 & 14 VICT. CHAP. 57.

An Act to prevent the holding of Vestry or other Meetings in Churches, and for regulating the Appointment of Vestry Clerks.* [5th August, 1850.]

[Preamble recited that scandal arose from holding vestry meetings in churches.]

Application of Act to parishes where population exceeds 2,000.

[I.] It shall be lawful for the Commissioners for Administering the Laws for Relief of the Poor in England, at any time or times, upon application in writing of the churchwardens, or, where there are no churchwardens, of the overseers, of any parish in England the population whereof exceeds two thousand persons according to the then last preceding census, such application being made pursuant to a resolution of the vestry of such parish, to make an order under their seal of office that this Act or any part thereof shall be applied to and be put in force within such parish; and a copy of such order shall be published in such newspaper or gazette, or both, as the said commissioners may direct, and shall be deposited with the churchwardens or overseers (where there are no churchwardens) of any such parish.

Where Act applied, no parish meetings to be held in the parish church or vestry-room.

II. From and after the expiration of twelve calendar months from the making and publishing of any such order no meeting of the inhabitants of the parish for the purpose of holding a vestry, or for any other purpose than that of divine worship, or some ecclesiastical or charitable object, or some other purpose approved by the bishop of the diocese, shall be holden in any parish church or chapel, or other consecrated church or chapel,

* For "Poor Law Commissioners" throughout this Act read now "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Note.

For the mode of passing a resolution of a vestry and the persons entitled to be present and vote thereon, see the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 3, and the Vestries Act, 1819 (59 Geo. 3, c. 85), s. 1.

It is not probable that this Act would now be applied to a rural parish. Offices and rooms for parish business in such parishes may be provided under the Parochial Offices Act, 1861 (24 & 25 Vict. c. 125), or under the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 8 (1); and sect. 4 of this latter Act provides for the use of schoolrooms or other public rooms in the parish for parish meetings or meetings of the parish council.

The vestry in a rural parish being now occupied only with ecclesiastical and charitable objects may apparently use the church for furthering such objects.

nor in the chancel thereof, nor, except in case of urgency, and with the previous approval of the said commissioners, in the vestry-room attached to such church or chapel, in any parish or place named in such order, any public or private Act of Parliament to the contrary notwithstanding. Sect. 2.

III. Where any vestry or other meeting, by virtue of any statute, law, or custom, has heretofore been holden in the church or chapel of any parish or place named in any such order as aforesaid, or in the vestry-room of such church or chapel, any such vestry or other meeting shall from and after the making and publishing of such order be holden in such other room or place within the parish or place as shall be provided for the holding thereof in pursuance of the provisions of this Act; and all acts done in such other room or place as aforesaid shall be as good, valid, and effectual in the law, to all intents and purposes whatsoever, as if such vestry meeting had been held in the vestry-room of such church or chapel, or in the body of such church or chapel as aforesaid. Meetings to be held in places provided under this Act.

IV. The churchwardens and overseers, or overseers alone, as the case may require, of any parish, with the sanction of the said commissioners and of a majority of the vestry, may by agreement hire any room, or purchase or take upon lease or exchange any lands or buildings, or sell lands belonging to such parish, and invest the proceeds of such sale in the purchase of other lands and buildings, or erect suitable buildings, for the purpose of holding of any vestry and other meeting for the transaction of any business of or relating to the parish; and the Lands Clauses Consolidation Act, 1845, except the parts and enactments of that Act with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the recovery of forfeitures, penalties, and costs, and with respect to lands acquired by the promoters of the undertaking, but which shall not be wanted for the purpose thereof, shall, in so far as the same is consistent with this Act, be incorporated with this Act; and for the purposes of this Act the expressions "the promoters of the undertaking," or "the secretary," whenever used in that Act, shall respectively mean the churchwardens and overseers, or overseers as aforesaid; and the expression "tolls or rates," whenever used in the said first-mentioned Act shall mean monies to be raised for the relief of the poor mentioned in this Act; and all lands and premises which shall be so purchased or taken on lease by the churchwardens and overseers, or overseers as aforesaid, of any parish shall be conveyed, demised, and Hire or purchase of lands, &c., and erection of buildings, for vestry or parish meetings. 8 & 9 Vict. c. 18.

Where any rooms have been provided under this section in a rural parish the legal interest in them passes to the parish council under sect. 5 (2) (*c*) of the Local Government Act, 1894, or, in a small parish, to the body corporate of the chairman of the parish meeting and overseers under sect. 19 (7) of that Act. Sect. 4. Note.

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assured to such churchwardens and overseers, or overseers alone as aforesaid, and their successors, in trust for the purposes of this Act, and shall be accepted, taken, and held by them as a body corporate, and the yearly rent reserved by any lease shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of any such parish, and shall be paid by the churchwardens and overseers, or overseers as aforesaid, of such parish, as such rent becomes payable; and if at any time any such rent be not paid within thirty days after it so becomes payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the said churchwardens and overseers, or overseers as aforesaid, with costs of suit, by action of debt in any court of law, or may levy the same by distress of the goods and chattels of any of the said churchwardens and overseers, or overseers as aforesaid.

Power to borrow money required for the purposes of this Act on the security of the poor rates.

V. It shall be lawful for the Poor Law Commissioners, by an order under their hands and seal, upon the receipt of a copy, under the hands of the said churchwardens, or, where there are no churchwardens, of the overseers of any parish, of a resolution passed at a vestry duly convened and held for the purpose, after public notice of the time and place and purpose of holding such vestry shall have been given in like manner as notices of vestry meetings are published and given, consenting to the issue of such order, to direct the churchwardens and overseers, or where there are no churchwardens, the overseers, and such churchwardens and overseers, as the case may be, are hereby required, if so directed by such order and resolution as aforesaid, to borrow any sum of money which may be required for the purposes of this Act, and to charge the poor rates of the said parish with the repayment of the sum borrowed for such purpose and the interest thereof, so nevertheless that the sum so borrowed shall be repaid by equal annual instalments not exceeding ten.

VI. And whereas in parishes whereof the population exceeds two thousand persons as aforesaid various duties are by law

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Sect. 5. Note.

For the manner of giving notices of vestry meetings, see the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 1, and the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45).

Sect. 6. Note.

This section is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so far as it relates to parish meetings under that Act. By sect. 17 (4) of that Act a parish council is not to appoint to the office of vestry clerk; and by sect. 81 (2), any vestry clerk appointed under this Act before the passing of the Local Government Act, 1894, became the clerk of the parish council. As the powers of the vestry in a rural parish are, except in ecclesiastical and charitable matters, now transferred to the

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imposed upon and required to be performed by the officers of parishes, and much business is transacted at vestry meetings, and the parish officers and vestries require the assistance of a vestry clerk in respect of such duties and business; and it is expedient that provision should be made for regulating the appointment and for the payment of such vestry clerks: Be it therefore enacted, that the churchwardens or other persons to whom it belongs to convene meetings of the vestry in any such parish shall, within the space of one calendar month from and after the making and publishing of any order of the commissioners so applied for, if such order extend to the appointment of vestry clerk as aforesaid, and also, in case of any subsequent vacancy in the office of vestry clerk, within one calendar month next after such vacancy, convene a meeting of the vestry of any parish named in such order, for the special purpose of electing a vestry clerk, to perform such of the duties herein-after mentioned as shall be applicable to such parish, in addition to those which are or may be imposed upon vestry clerks by any Act or Acts of Parliament; and public notice of such vestry, and the place of holding the same, and the special purpose thereof, shall be given in the usual manner in which notice of the meetings of the vestry is now given, at least seven days before the day to be appointed for holding such vestry; and at such meeting the vestry shall proceed to elect some fit and competent person to be vestry clerk, and the person so elected shall not be removable from office except by a resolution passed at a vestry to be called for that special purpose in the manner herein-before mentioned, and with the consent of the said Commissioners for Administering the Laws for the Relief of the Poor in England, or by an order under the seal of the said commissioners.

Election of vestry clerks.

VII. It shall be the duty of such vestry clerk, unless otherwise directed by the Poor Law Commissioners,

Duties of vestry clerks.

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Note.

parish council or parish meeting, it will no longer be possible to appoint a vestry clerk under this Act in such parish.

In the metropolis the appointment of vestry clerks is regulated by the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), s. 62.

A writ of *quo warranto* lies to inquire into the validity of the election of a vestry clerk under this Act (*Reg.* v. *Burrows*, [1892] 1 Q. B. 399); but where a person while churchwarden was proposed and elected as vestry clerk, and wrote a letter of thanks to the electors but did not act as vestry clerk, *held* that what he had done had not been such an acceptance or exercise of the office of vestry clerk as to render the remedy by *quo warranto* applicable (*Reg.* v. *Tidy*, [1892] 2 Q. B. 179).

Sect. 7.

Note.

This section is repealed as regards rural parishes by the Local Government Act, 1894, s. 89, and there is now no vestry clerk in such parishes.

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To give notice of and attend the meetings of vestry and committees appointed thereat:

To summon and attend meetings of the churchwardens and overseers, when required, and to enter the minutes thereof respectively:

To keep the account of all charity monies which the churchwardens or overseers are authorized or are accustomed to distribute:

To keep the vestry books, and the parish deeds and documents, and the rate-books and accounts which are closed, and to give copies of and extracts from the same to any person entitled thereto, such person paying for the same at the rate of fourpence for every seventy-two words or figures, and to permit any person or persons rated to the relief of the poor of the said parish, at all reasonable times, to inspect the same or any of them, on pain of dismissal for neglecting to give such copies or permit such inspection:

To make out, when required by the vestry, the church rate, and procure the same to be signed and completed, and to retain the custody thereof, and, where there is no collector of poor rates or assistant overseer, to make out the poor rate, and procure the same to be allowed, and to make all the subsequent entries in the rate-books, and to give the notices thereof required by law:

To prepare and issue the necessary process for recovering of arrears of such rates respectively before the justices, and procure the summons to be served, and to attend the justices thereon, and advise the churchwardens and overseers as to the recovery of such arrears:

To keep and make out the accounts of the churchwardens, and to present such accounts to the vestry or other legal authority to be passed, and to examine the church rate collectors' accounts and returns of arrears:

To assist the overseers in making out their accounts (whenever required by them,) and, subject to the rules and regulations

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Sect. 7. Note.

Notices of vestry meetings are regulated by the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 1, and the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45).

For the keeping of parish books, see the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 6. Rates, &c., may be inspected by any inhabitant (Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 2), and extracts taken (Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 5).

For abolition of compulsory church rates, see the Compulsory Church Rate Abolition Act, 1868 (31 & 32 Vict. c. 109), s. 3.

Recovery of arrears of rates is chiefly regulated by the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14).

Sect. 7.

of the Commissioners for Administering the Laws for the Relief of the Poor, to examine from time to time the accounts of the assistant overseers or collectors of poor rates, and their returns of arrears:

To attend the audit of accounts of the overseers, and conduct all correspondence arising therefrom:

To assist the churchwardens or overseers in preparing and making out all other parochial assessments and accounts, and in examining the accounts of the collectors of such assessments:

To ascertain and make out the list of persons liable to serve on juries, and to cause them to be printed and duly published, and returned to the justices:

To give the notices for claims to vote for members of Parliament, and to make out lists of voters, and get the same printed and published, and duly returned, according to law, and to attend the court for revising them, and to prepare, make out, and publish the burgess lists and the lists of constables:

To make all returns required of the churchwardens or of the overseers by law or proper authority:

To advise the churchwardens and overseers in all the duties of their office; and also to perform such other duties and services of a like nature as the said Commissioners for Administering the Laws for the Relief of the Poor in England, from time to time, at the request of the churchwardens or overseers of any such parish, or otherwise, shall prescribe and direct to be performed by such vestry clerk.

Sect. 7. Note.

For the preparing, making out, and audit of parochial accounts, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 47, and the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32, 33.

It is not part of the duty of a vestry clerk to make out a valuation list for the overseers (*Reg.* v. *Cumberledge*, 2 Q. B. D. 366; 38 L. T. (N. S.) 700).

As to making out jury lists, see the Juries Act, 1825 (6 Geo. 4, c. 50), and the Juries Act, 1870 (33 & 34 Vict. c. 77).

As to notices to voters to send in claims, see the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 4; as to preparation and publication of burgess lists, see the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 44—49, and the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26); as to lists of constables, see the Parish Constables Act, 1842 (5 & 6 Vict. c. 109).

Sect. 8.

Salary of vestry clerk.

VIII. The amount of salary or other remuneration to be paid to the vestry clerk, as well as the days and times on which and the persons by whom the same shall be payable, shall be fixed by the said commissioners, and altered from time to time as there shall be occasion; and such salary or remuneration shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of any such parish; and, where the said commissioners shall deem requisite, such vestry clerk shall give such security and to such persons as the said commissioners shall by their order under seal direct: Provided always, that where, under the provisions of any local Act or Acts of Parliament, any person or persons shall be paid for the performance of any of the duties of vestry clerk, or for assisting in the performance of any of the duties of churchwardens or overseers of the poor, nothing herein contained respecting the duties of the vestry clerk shall apply to or be deemed to apply to the performance of such duties while the same are so performed, or while payment shall be made for the performance of them as aforesaid.

Vestry clerk may be required to give security.

This Act not to apply where other provision is made for the performance of the duties of vestry clerk.

Saving as to duties of churchwardens and overseers.

IX. Nothing herein contained shall exempt or discharge, or be construed to exempt or discharge, any churchwarden or overseer of the poor from the performance of any duty required of him by law, nor oblige him to avail himself of the assistance of any vestry clerk to be appointed as aforesaid in the performance of his duties, unless he shall think fit so to do.

Interpretation of terms.

X. In this Act the following words and expressions shall have the several meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction; (that is to say,) "parish" shall mean every place having separate overseers of the poor and maintaining its own poor, and also every parish or place having a separate ecclesiastical jurisdiction, and in which a vestry shall have been heretofore constituted and held for parochial as well as ecclesiastical purposes, either separately or jointly with any other parish; "churchwarden" shall mean also chapelwardens or other persons discharging the duties of churchwardens in any parish or place as last aforesaid; "vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in

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Sect. 8. Note.

Repealed as regards rural parishes by the Local Government Act, 1894, s. 89.

The salary of a vestry clerk is not payable out of the poor rate unless the appointment is made under an Act of Parliament authorizing such payment (*Rex* v. *Croydon*, 5 T. R. 714).

Sect. 9. Note.

Repealed as to rural parishes by the Local Government Act, 1894, s. 9.

those parishes in which there is a select vestry . . . elected under the Vestries Act, 1831, or elected under the provisions of any local Act of Parliament for the government of any parish by vestries, or under or by virtue of any prescriptive custom or otherwise, in which parishes it shall mean select vestry; "lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure; words importing the masculine gender shall include the feminine; words of the plural number shall include the singular; words of the singular number shall include the plural.

Sect. 10.

1 & 2 Will. 4, c. 60.

[Sect. 11. Repealed by the S. L. R. Act, 1875.]

POOR LAW AMENDMENT ACT, 1850.

13 & 14 VICT. CHAP. 101.

An Act . . . to make certain Amendments in the Laws for the Relief of the Poor.* [14th August, 1850.]

[Preamble recited that under 11 & 12 Vict. c. 110, costs of relief and expenses of burial of certain poor persons, and under 12 & 13 Vict. c. 103, costs of removing and maintaining certain pauper lunatics, were made chargeable on the common fund of the union.]

[I.] All the said several . . . provisions in the said recited Acts above referred to . . . shall apply, and shall be held to have applied, to the incorporated hundred of Forehoe, to the incorporated hundreds of East and West Flegg . . . in the county of Norfolk, and to the incorporated hundred of Mutford and Lothingland in the county of Suffolk, in like manner and to the same extent as to the unions in the said Acts referred to.

Certain provisions of 11 & 12 Vict. c. 110, and of 12 & 13 Vict. c. 103, applied to certain incorporated hundreds.

II. It shall be lawful for the guardians of any union to contribute out of the common fund, or for the guardians of any parish to contribute out of the poor rates of such parish, such

Guardians may contribute towards enlargement or purchase of burial ground, and may bury

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 2.

Note.

For the obligation of the guardians to bury the body of a pauper elsewhere if so requested, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 31.

For the powers of guardians to arrange for burials of paupers in the churchyards or burial grounds of other parishes, and to enter into agreements with cemetery companies and burial boards for the burial of paupers, see the Poor (Burials) Act, 1855 (18 & 19 Vict. c. 79).

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 10,

Sect. 2.

therein the bodies of poor persons dying in workhouses.

sum of money as the Poor Law Board shall approve, towards the enlargement of any churchyard or consecrated public burial ground in the parish wherein the workhouse shall be situated, or in any other parish of the union, or towards the obtaining of any such consecrated public burial ground; and where any such burial ground shall be enlarged or obtained with the aid of such contribution, it shall be lawful for them to bury therein the dead body of any poor person dying in such workhouse: Provided always, that nothing in this Act contained shall discharge or vary the obligation now imposed by law upon the guardians to bury the dead body of such poor person elsewhere, in case the deceased person, or the husband, or wife, or next of kin of such deceased person, shall have so requested: Provided also that in all cases of burial under the direction of the guardians as aforesaid the fee or fees payable by the custom of the place where the burial may be, or under the provisions of any Act of Parliament, shall be paid by the said guardians for the burial of each such body to the person or persons who by such custom or under such Act shall be entitled to receive such fee or fees, and charged by them in like manner as the relief to the deceased when living was last chargeable.

Powers of boards of management in metropolitan police district as to purchase of sites for schools.

7 & 8 Vict. c. 101.

III. In addition to the principal sum or sums of money which the board of management of a school district formed under the authority of the Poor Law Amendment Act, 1844, are empowered to raise or borrow for the purpose of providing a building for the school of such district, such board may, whenever any part of such district is situated within the metropolitan police district, with the consent and order of the Poor Law Board, also raise or borrow and charge the future poor rates of the unions and parishes respectively combined in such district with such further or other sum or sums of money as may be or may have been necessary for the purchase of any land, or interest in land, required for the site of such school, or required for the training of the children maintained thereat, or for the site of any addition to such school.

Sect. 2. Note.

for the purposes of burial of any poor person dying in the workhouse of any union, such workhouse shall be considered as situated in the parish in the union where such poor person resided last previously to his removal to the workhouse.

Sect. 3. Note.

Power to borrow was given by sect. 44 of 7 & 8 Vict. c. 101. The amount authorized was increased by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 16, and again by the Poor Law Loans Act, 1872 (35 & 36 Vict. c. 2), s. 1, which enactment is repealed, and the amount now regulated by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

Sect. 4.

Emigration of orphans and deserted children.

IV. [*Recital of* 4 & 5 *Will.* 4, *c.* 76, *s.* 62; 12 & 13 *Vict. c.* 103, *s.* 20.] It shall be lawful for the guardians of any union or parish, in like manner and subject to the same regulations, limitations, and restrictions, as are contained in the said last-mentioned Act, but with the consent in writing of the guardians or the majority of the guardians of the parish of the chargeability in place of the parish of the settlement, transmitted as therein specified, to expend money in and about the emigration of any poor orphan or deserted child under the age of sixteen years having no settlement, or the place of whose settlement shall not be known, who may be chargeable to some parish in their union or to their parish respectively, and such guardians shall charge the expense so incurred to the same parish to which such orphan or deserted child was chargeable at the time of the emigration; and where any such orphan or deserted child shall be chargeable to the common fund of any union, the guardians of such union shall have the same powers (subject to the same conditions) to procure or assist in procuring the emigration of any such last-mentioned orphan or deserted child as they have with regard to poor persons rendered irremovable by virtue of the Poor Removal Act, 1846: Provided always, that no emigration of any such orphan or deserted child, under any of the above-mentioned powers, shall take place until such orphan or deserted child shall have consented thereto before the justices assembled in petty sessions holden in or near to the union or parish the guardians whereof propose to procure such emigration, and a certificate of such consent, under the hands of two of the justices present thereat, shall have been transmitted to the Poor Law Board.

9 & 10 Vict. c. 66.

Liability of husband for maintenance of lunatic married

V. Where any married woman being lunatic shall be duly removed to any asylum, licensed house, or registered hospital, under any of the statutes in such behalf, any two justices having jurisdiction in the place wherein the husband of such

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Sect. 4. Note.

For the powers of the guardians to assist the emigration of persons rendered irremovable by the Poor Removal Act, 1846, see the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 5. For the temporary maintenance of intending emigrants, see the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 14, and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 22.

Sect. 5. Note.

This section is amended by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 20, which provides that where an order is sought under this section, the justices having jurisdiction in the union or parish, the guardians whereof shall make the application, shall be empowered to issue the summons and make the order instead of the justices having jurisdiction in the place where the husband may dwell.

An order may be obtained under this section notwithstanding

Sect. 5.

woman in lunatic asylum, licensed house, or registered hospital.

lunatic shall dwell, upon application by or on behalf of the guardians of the union, or of the parish having a separate board of guardians, or the overseers of the parish, to which union or parish respectively such lunatic shall be or become chargeable, may summon such husband to appear before them to show cause why an order should not be made upon him to maintain or contribute towards the maintenance of his wife in such asylum, licensed house, or registered hospital; and upon his appearance, or in the event of his not appearing, upon proof of due service of such summons upon him, such justices may (if they think fit) make an order upon him to pay such sum, weekly or otherwise, for or towards the cost of the maintenance of such lunatic, as after consideration of all the circumstances of the case shall appear to them to be proper, and determine in such order how and to whom the payments shall from time to time be made; which order shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the Summary Jurisdiction Act, 1848, for the enforcing of orders of justices requiring the payment of a sum of money.

11 & 12 Vict. c. 43.

Disqualification of master of workhouse and relieving officer, for certain offices.

VI. No master of a workhouse, nor any relieving officer, shall be henceforth qualified to be appointed to the office of overseer of the poor, constable, or any other parochial or township office, as long as he shall continue to be such master of a workhouse or relieving officer, except where the Poor Law Board shall authorize any relieving officer to hold a paid office in a parish: Provided always, that no rate or assessment made, nor any other act or thing done, by any such person as such parochial or township officer, nor the service of any notice, demand, order, or process upon him as such, shall if in other respects legal and sufficient, be deemed invalid by reason only of such disqualification as aforesaid.

& 7 Will. 4, 96.

VII. And whereas by an Act of the seventh year of His late Majesty King William the Fourth, intituled "An Act to regulate Parochial Assessments," it is provided, that the justices acting in and for every petty sessions division shall hold special sessions for hearing appeals against the rates of the several parishes within their respective divisions, and shall cause public notice of the time and place of the holding of such special sessions to be given in each parish, but no provision is made for the

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Sect. 5. Note.

that the wife has obtained a protection order under 20 & 21 Vict. c. 85, s. 21 (*Oxford Guardians* v. *Barton*, 39 J. P. 725).

The liability of a husband to maintain a lunatic wife is not affected by anything in the Lunacy Act, 1890 (53 & 54 Vict. c. 5). See sect. 296 of that Act.

Sect. 7. Note.

Provision is made by the High Constables Act, 1869 (32 & 33 Vict. c. 47), s. 3, for the justices' clerks serving notice of special sessions by post.

payment of the costs incurred in preparing and giving of such notice: Be it therefore enacted, that such fee or remuneration as shall have been or shall hereafter be settled by the justices of the peace at their respective general quarter sessions, according to the statute in that behalf, to be paid to the clerks to justices of the peace for the preparing and giving of a notice of a special sessions for this purpose, or, in default thereof, of a notice of any special sessions, shall be paid by the overseers of each parish comprised within the division for which the special sessions are to be held, and be charged by them upon the poor rate.

Sect. 7.

Fee to clerk to justices, under 6 & 7 Will. 4, c. 96, s. 6, to be paid by the overseers.

VIII. And whereas by an Act passed in the fifty-fifth year of the reign of King George the Third, intituled "An Act to prevent poor Persons in Workhouses from Embezzling certain Property provided for their Use; . . . and for other purposes herein mentioned, relating to the Poor," and by the Poor Law Amendment Act, 1844, power is given to punish by imprisonment any person or persons deserting, absconding, or running away from any workhouse or workhouses, and carrying away with him, her, or them any clothes, linen or other goods in the said Act of the fifty-fifth year of the reign of King George the Third enumerated and described: Be it enacted, that in the case of every such offence it shall be lawful for the convicting justice or justices, if he or they shall so think fit, to order and adjudge that the person or persons convicted shall, during the period of imprisonment by law authorized, be kept to hard labour.

55 Geo. 3, c. 137, s. 2.

7 & 8 Vict. c. 101, ss. 57, 58.

Persons imprisoned for offences under recited enactments may be kept to hard labour.

IX. Where any person shall be charged with and convicted of any assault upon any officer of a workhouse or relieving officer in the due execution of his duty, or upon any person acting in aid of such officer, the court may sentence the offender to the same punishment as is provided by law for an assault upon a peace officer or revenue officer in the due execution of his duty, and shall have the same power as in case of such last-mentioned assault to order payment of the costs and expenses of the prosecution.

Assaults upon workhouse officers or relieving officers.

X. And whereas by an Act passed in the last session of Parliament, intituled 'An Act to provide a more convenient

Providing for expense of collecting rates.

12 & 13 Vict. c. 65.

The punishment for assaulting a peace or revenue officer in the execution of his duty is imprisonment, with or without hard labour, for not more than two years (Offences against the Person Act, 1861 (24 & 25 Vict. c. 100), s. 38).

Sect. 9.

Note.

The provision of the present section is now extended by the Poor Law Amendment Act, 1851 (14 & 15 Vict. 105), s. 18, to an assault upon any person included under the word "officer" in 4 & 5 Will. 4, c. 76, s. 109, or upon any other person acting in his aid.

The Act referred to in this section is the 12 & 13 Vict. c. 65, which is repealed as to the county rate by the County Rates Act, 1852 (15 & 16 Vict. c. 81), s. 1.

Sect. 10.

Note.

This section is repealed generally by the Municipal Corporations

Sect. 10.

Mode of levying and collecting County Rates, County Police Rates, and District Police Rates in Parishes situated partly within and partly without the limits of Boroughs which are not liable to such Rates,' provision is made to enable the overseers or other persons charged with the collection of the poor rate, in cases where any parish or place shall be partly within and partly without a borough, to assess and levy upon the inhabitants and occupiers of all messuages, lands, and tenements liable to the poor rates in that part of the parish or place which is within the borough the amount of money which they shall be required to raise as a contribution towards a district, borough, or other rate upon a warrant from the mayor, justice, constable, or other officer as therein mentioned: And whereas some difficulty has arisen in certain parishes as to the payment of the expenses of collecting the rates upon such assessments, and enforcing of the payment thereof: Be it therefore enacted, that the overseers of any such parish may employ for the collection of such rates as aforesaid, or of any gaol rate assessed upon any such part thereof, the collector of the poor rates in the said parish, or some other person to be appointed with the like authority and subject to the same regulations as regards his term of office, his remuneration, the security to be given for the discharge of his duties, and his liability to account to the auditor and other persons, as such collector of poor rates is or shall be subject to, and to pay such remuneration out of the sum raised by the rate assessed upon such part as aforesaid; and that the collector of poor rates, or other person as aforesaid, shall, for the purpose of collecting the rate so assessed upon such part, have all the powers, privileges, protections, and incidents which belong to the overseers in the collection of the poor rate, and the like remedy for the recovery of the costs of proceedings to enforce the payment of the rate aforesaid, as in the case of a poor rate; and the said overseers, in estimating the amount of their assessment for such rate upon any part of a parish divided as aforesaid, may include such a sum as will provide for the payment of the costs of the assessment and collection, and a reasonable sum in respect of the rates which may be excused or become irrecoverable.

Construction. 4 & 5 Will. 4, c. 76.

XI. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the statutes explaining and extending it; and all the

Sect. 10. Note.

Act, 1882 (45 & 46 Vict. c. 50), s. 5: but as its provisions are extended to county rates by sect. 13 of the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), which is unrepealed, it may be in force with regard to county rates, although it is now in fact inoperative by reason of the provisions of sect. 1 (3) of the Local Government Act, 1894, which divides into separate parishes all parishes which in 1894 were partly within and partly without a borough.

provisions of the said last-mentioned Act and of the said statutes not repealed shall extend to this Act, except where any such provision would be inconsistent with anything herein contained. Sect. 11.

XII. This Act shall extend only to England and Wales. Extent of Act.

[Sect. 13. Repealed by the S. L. R. Act, 1875.]

POOR LAW (APPRENTICES) ACT, 1851.

14 & 15 VICT. CHAP. 11.

An Act for the better Protection of Persons under the Care and Control of others as Apprentices or Servants . . .

[20th May, 1851.]

[*Preamble.*]

[Sects. 1, 2. Repealed by 24 & 25 Vict. c. 95, s. 1, and replaced by sect. 26 of the Offences against the Person Act, 1861 (24 & 25 Vict. c. 100.]

III. The guardians of every union and of every separate parish under the management of a board of guardians, and the overseers of every parish not in union or under the management of a board of guardians, shall provide and keep a book or books, and shall cause to be registered therein the name of every young person under the age of sixteen who shall hereafter be hired or taken as a servant from the workhouse of such union or parish, together with the several other particulars specified in the schedule hereunto annexed; and every such entry shall be signed by the presiding chairman of such board of guardians at an ordinary meeting thereof, or by some one of such overseers; provided that nothing herein contained shall be taken to supersede or affect the obligation to keep such register of poor children apprenticed by overseers or guardians as is required by the Parish Apprentices Act, 1802, and the Poor Law Amendment Act, 1844. Register of young persons taken as servants from workhouses. 42 Geo. 3, c. 46. 7 & 8 Vict. c. 101.

IV. Where any young person under the age of sixteen shall have been or shall be hired or taken as a servant from the workhouse of any union or parish, or shall have been or shall be Young persons so taken as servants to

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The apprenticing of paupers was transferred from the overseers to the guardians by 7 & 8 Vict. c. 101, s. 12. Sect. 3. Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 33, the guardians of any union or parish, or the managers of any district school, may appoint and pay any Sect. 4. Note.

Sect. 4.

be visited by relieving officer, &c.

bound out as an apprentice by the guardians of any union, or the guardians or overseers of any parish, it shall be lawful for such guardians or overseers respectively, and they are hereby required, so long as such young person shall be under the age of sixteen, and shall be known to them to reside as servant or apprentice in the same service into which such young person shall have so gone as a servant from such workhouse or as such apprentice within such union or parish respectively, or within five miles of any part of such union or parish, to cause the relieving officer, or, where there is no relieving officer, then some other officer duly authorized for the purpose, to visit such young person at least twice in every year, and to report to them in writing whether he has found reason to believe that such young person is not supplied with necessary food, or is subjected to cruel or illegal treatment in any respect.

Provision in case of residence at a distance from union or parish.

V. Where any young person under the age of sixteen shall hereafter be hired or taken as a servant from the workhouse of any union or parish, or shall be bound out as an apprentice by the guardians of any union, or by the guardians or overseers of any parish, and the residence of the master or mistress shall be more than five miles from any part of such union or parish, then a written notice of such hiring, taking, or binding, specifying the name and age of the apprentice or servant, and the name, description, and residence of such master or mistress shall be forthwith sent from such guardians or overseers to the guardians or overseers of the union or parish in which such master or mistress shall reside; and thereupon it shall become the duty of such last-mentioned guardians or overseers to cause the particulars contained in such notice to be registered in some book or books, to be provided by them for the purpose, together with the name of the union or parish from which such notice shall have been received; and such last-mentioned guardians or overseers shall cause such young person to be visited as frequently and in the same manner in all respects as if such young person had been hired or taken from their own workhouse, or had been bound out as an apprentice by themselves.

[Sect. 6. *As to bodily injuries inflicted on children under sixteen.* Sect. 7. *As to binding over the clerk of the guardians to prosecute offences under this Act:* Repealed by 24 & 25 Vict. c. 95, and replaced by sect. 73 of the Offences against the Person Act, 1861 (24 & 25 Vict. c. 100).]

Interpretation.

VIII. The words "guardians," "union," "overseers," "justice of the peace," "officer," "poor," "parish," and "workhouse,"

Sect. 4. Note.

officer or other competent person to visit and report upon the condition, treatment, and conduct of any poor child under the age of sixteen who shall have gone into service from the workhouse of such union or parish or from such district school.

used in this Act, shall be construed in like manner as in the Poor Law Amendment Act, 1834. Sect. 8. 4 & 5 Will. 4, c. 76.

IX. This Act shall extend only to England and Wales. Extent.

SCHEDULE. Sect. 3.

Form of Register.

Name of child.	Age.	Date of hiring or taking as servant.	Name of master or mistress.	Trade or other description of master or mistress.	Residence of master or mistress.

THE COMPOUND HOUSEHOLDERS ACT, 1851.

14 & 15 VICT. CHAP. 14.

An Act to amend the Law for the Registration of certain Persons commonly known as "Compound Householders," and to facilitate the Exercise by such persons of their Right to vote in the Election of Borough Members to serve in Parliament. [3rd July, 1851.]

WHEREAS by the Representation of the People Act, 1832, it is enacted, that . . . it shall be lawful for any person occupying premises in any city or borough which shall return a member or members to serve in any future Parliament to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, and actually paying or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situated are thereby required to put the name of such occupier upon the rate for the time being; and in case such overseer shall neglect or refuse so to do, such occupier shall nevertheless for the purposes of the said Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been 2 & 3 Will. 4, c. 45, s. 30.

made in respect of which he shall have so claimed to be rated as aforesaid: And whereas it is often inconvenient or impracticable for such persons to make continual claim in respect of each rate, and many persons are consequently deprived of the franchise:

Sect. 1.

Occupiers having once claimed to be rated in respect of premises, and paying rates, need not make further claim with regard to future rates.

[I.] No person so claiming to be rated, and paying or tendering on or before the twentieth day of July in each year the full amount of the rate or rates (if any) due in respect of such premises on the fifth day of January preceding, shall be required to make any further claim in regard to any future rate upon the premises in respect whereof his right to vote in any such election as aforesaid shall arise, but shall be entitled to be put on the list and to be registered as a voter, provided he shall have occupied the premises in the manner and for the time required by the said Act, and provided the poor's rates and assessed taxes chargeable upon the same shall have been paid for the period and up to the time required by law in respect of all persons entitled to vote in the election of members of Parliament for any borough under the provisions of the said Act.

Liability of the claimants to rates shall continue so long as they occupy the premises and remain on the register.

II. Provided always, that every person so claiming as aforesaid, who shall be registered as a voter in respect of the premises to which his claim relates, shall in respect of every rate for the relief of the poor made and published after such claim as aforesaid, while he continues to occupy the same premises and to be a registered voter in respect thereof, be liable to the same extent and in the same manner as in respect of the rate published next before the making of such claim.

In case of composition with landlord, the liability shall be limited to the amount of the composition.

III. Provided always, that in cases where by any composition with the landlord a less sum shall be payable than the full amount of rate which, except for such composition, would be due in respect of the same premises, the occupier claiming to be rated shall not be bound to pay or tender more than the amount then payable under such composition.

Sect. 3.

Note.

The Act in force at the passing of this Act with regard to the composition by landlords of small tenements with vestries for the payment of rates was 13 & 14 Vict. c. 99; that Act is now repealed and such composition regulated by the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), as amended by the Assessed Rates Act, 1879 (42 & 43 Vict. c. 10).

POOR LAW AMENDMENT ACT, 1851.

14 & 15 VICT. CHAP. 105.

An Act to make certain Amendments in the Laws for the Relief of the Poor.* [8th August, 1851.]

[Preamble recited the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101).]

[Sect. 1 *continued certain temporary provisions of* 13 & 14 *Vict.* c. 101 : Repealed by the S. L. R. Act, 1875.]

[Sect. 2 *provided that new boards of guardians should come into office on April* 15*th in each year :* Repealed by the Local Government Act, 1894.]

[Sect. 3 *imposed penalties for malpractices at the election of guardians :* Repealed by the Local Government Act, 1894.]

Guardians with the consent of the Poor Law Board may subscribe to hospital or infirmary.

IV. [*Recital that doubts existed as to the legal authority of guardians to subscribe to hospitals, &c.*] The guardians of any union or parish may, with the consent of the Poor Law Board, pay out of the common fund of such union, or, in the case of a parish, out of the funds in the hands of such guardians, any sum of money as an annual subscription towards the support and maintenance of any public hospital or infirmary for the reception of sick, diseased, disabled, or wounded persons, or of persons suffering from any permanent or natural infirmity.

Guardians may reimburse officers for damage to their property in certain cases.

V. The guardians may, where they think fit, pay to or reimburse any of their officers the expense necessarily incurred in repairing or restoring property belonging to such officer which may have been unlawfully, wilfully, and maliciously damaged, injured, or destroyed by any person applying or having applied

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 4. Note.

The provisions of this section are extended by the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 10, to authorize guardians to subscribe to asylums for the blind, deaf, or dumb, or for persons suffering from permanent or natural infirmity, to associations for providing nurses or aiding boys and girls in service, and generally to any institution which is calculated to render useful aid in the relief of the poor.

In the metropolis guardians are authorized by the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 16, to enter into arrangements with public general hospitals or dispensaries for the treatment of pauper patients.

Sect. 5. Note.

This provision supplements the general provision contained in the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 59, as to the payment out of the poor rates of the costs of civil and criminal proceedings undertaken by guardians.

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for relief, and such costs and expenses incurred in the prosecution of the offender as may not be allowed by the court before which the prosecution or trial shall take place.

Poor children of a union or parish may, with consent of Poor Law Board, be received into a workhouse, &c. belonging to another union or parish where there is surplus accommodation.

VI. Where in any union or parish there shall be a workhouse or building having adequate provision for the reception, maintenance, and education of poor children, and there shall be more accommodation therein at any time than the guardians of such union or parish shall require for the poor children of their own union or parish, such guardians may, with the consent of the Poor Law Board, contract with the guardians of any other union or parish, . . . for the reception, maintenance, and instruction therein of any poor children under the age of sixteen years chargeable to such other union or parish, or to any parish in such other union, being orphans or deserted by their parents, or whose parents or surviving parent shall consent; and such last-mentioned children, while at such workhouse or other building, shall be maintained and instructed in the same manner in all respects as the children of the union or parish to which such workhouse or other building shall belong, and shall be subject to the control and management of the guardians of such union or parish, or their officers, in like manner as if such children were chargeable to such union or parish: Provided always, that the abiding of any such child in any such workhouse or building shall in all other respects be attended with the same legal consequences as if such workhouse or building had been situated within the union or parish from which such child shall have been sent.

[Sect. 7. *As to security for loans:* Repealed by 32 & 33 Vict. c. 45, s. 6.]

Payments for maintenance, &c. during

VIII. Where the execution of any order of justices for the removal of a pauper shall have been or shall be suspended, the

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Note.

The words omitted in this section, which limited the distance to which children might be sent to twenty miles, are repealed by the S. L. R. Act, 1875, the limitations having been abolished by 29 & 30 Vict. c. 113, s. 16.

A general power is given by the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 14, to guardians to arrange with the guardians of another union for the accommodation of paupers from their union when their workhouses are overcrowded, &c. The expenses of conveying the children to another union are payable out of the poor rates. (See Paupers Conveyance (Expenses) Act, 1870 (33 & 34 Vict. c. 48).)

Sect. 8.

Note.

The statutes providing for suspension of an order of removal are the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 2, and the Poor (Settlement and Removal) Act, 1809 (49 Geo. 3, c. 124), s. 3.

The present section as to payment by and to overseers of parishes

overseers of the parish to which the removal is thereby ordered to be made may from time to time during the continuance of the suspension, if they think fit, pay to the overseers of the parish obtaining such order the costs and expenses incurred in the maintenance and relief of the poor person mentioned in such order, either directly, or through the guardians of the union comprising either or both of such parishes, and shall have credit for every such payment in the charges allowed by any order of justices subsequently made.

Sect. 8. suspension of orders for removal.

IX. Where the overseer or any other officer of any parish, or any officer of a union, shall neglect to pay in due course of law money lawfully payable by him as such overseer or officer to the treasurer of such union or parish, residing or having his place of business in a county, district, or place different from that in which such overseer or officer shall reside at the time of any such default, and by reason of such neglect such overseer or officer shall be liable to be summoned before a justice or justices, any justice or justices of either county, district, or place shall have jurisdiction to hear and determine the complaint.

What justices to determine complaints as to non-payment of money by overseers, &c.

X. It shall be lawful and sufficient to send any notice of appeal against an order of removal, or statement of grounds of

Notices of appeal, &c. may be sent by post.

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is practically superseded in the case of parishes in unions by the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 26, which provides for such payment by and to the guardians direct.

Sect. 8. Note.

This section applies to cases where it is necessary to enforce payment of contribution orders under the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1, or of sums certified to be due by district auditors under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32.

Sect. 9. Note.

The Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 79, provides for the service of a notice of chargeability and a copy of the order of removal, and enacts that they may be sent "by post or otherwise"; and by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 2, the notice of chargeability is also to be accompanied by "grounds of removal."

Sect. 10. Note.

When the notice is sent by post, it is deemed to be given at the time when by the regular course of post it would reach the respondents; and where the last day of giving notice was September 19th, and the appellants posted it on the 17th, and according to the course of the post it ought to have reached the respondents on the 19th, but it was not in fact delivered to them until the 20th—it was holden sufficient (*Reg.* v. *Slawstone*, 18 Q. B. 388; 21 L. J. M. C. 145; 16 Jur. 1066).

Admitting that the delivery of notices in the ordinary manner would be service of an order or process within 29 Car. 2, c. 7, s. 6, the transmission of them by post, under sect. 79 of 4 & 5 Will. 4, c. 76, where, by the ordinary course of post, they reached on Sunday

Sect. 10.

appeal against such order, by post or otherwise, in like manner as a copy of an order of removal and statement of grounds of removal may now be sent by law.

9 & 10 Vict. c. 66, s. 6.

XI. And whereas by the Poor Removal Act, 1846, section six, any officer of a parish or union wrongfully causing or procuring any poor person to be removed or conveyed or to depart from a parish under the circumstances therein described is rendered punishable upon conviction before two justices: And whereas it is expedient to remove doubts which have arisen thereon: Be it enacted, that the term "officer" shall include any overseer, and that the term "justices" shall apply to the justices of the county or other jurisdiction in which the parish may be situated from or to which such poor person shall be removed; and that the penalty imposed by the Act shall be paid to the overseers of the parish to which the poor person shall become chargeable in consequence of such unlawful removal, conveyance, or departure, to be applied in aid of the poor rate of such last-mentioned parish.

Explanation of the terms "officer" and "justices" in recited section;

and application of the penalty thereby imposed.

Guardians of two unions, &c. may refer questions to Poor Law Board.

XII. The guardians of any two unions or parishes, or the guardians of a union and the guardians of a parish, or the guardians of a union or parish and the overseers of any parish, or the overseers of any two parishes, between whom any question affecting the settlement, removal, or chargeability of any poor person shall arise, may, if they think fit so to do, by agreement in writing, executed in respect of any guardians by sealing with their common seal, and in respect of overseers by the signatures of a majority of them, submit such question to the Poor Law Board for their decision; and the said board may, if they see fit, entertain such question, and by an order under their seal determine the same; and every such order shall be in all courts and for all purposes final and conclusive, between the parties submitting such question, as to the question therein determined.

9 & 10 Vict. c. 66, s. 7.

XIII. And whereas by the Poor Removal Act, 1846, section seven, it is enacted, that the delivery of any pauper under any

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Sect. 10. Note.

the hands of the overseers of the parish to whom the order was directed, was not void by 29 Car. 2, c. 7, s. 6 (*Reg.* v. *Leominster*, 2 B. & S. 391; 31 L. J. M. C. 95; 6 L. T. (N. S.) 216; 8 Jur. (N. S.) 793). But where a notice of appeal was delivered in the regular and ordinary course of post on a Sunday, and if it had not been delivered until the Monday it would have been too late, it was held to be void; and when delivery is made by post on Sunday it must be considered as made on the following Monday (*Asprell* v. *Lancashire JJ.*, 16 Jur. 1067; S. C. *Ex parte Ashford*, 16 J. P. 759).

Sect. 13. Note.

Paupers removed under an order obtained by the guardians should now be delivered at the workhouse of the union or parish in which

warrant of removal directed to the overseers of any parish at the workhouse of such parish, or of any union to which such parish belongs, to any officer of such workhouse, shall be deemed a delivery of such pauper to the overseers of such parish: Be it enacted, that the delivery of a written statement of the charges for the maintenance of any pauper delivered under any order or warrant of removal directed to the overseers of any parish, at the workhouse of such parish, or of any union to which such parish belongs, to any officer of such workhouse, at the time of the delivery of such pauper, shall be deemed a delivery of such statement to the overseers of such parish, and shall be deemed a sufficient demand thereof in any proceedings for the recovery of such charges.

Sect. 13.

Delivery at workhouse of statement of charges for maintenance of paupers to be deemed delivery to overseers, &c.

XIV. The Poor Law Board may, if they see fit, upon the application or with the consent of the acting members of the board of management, at any time, by an order under their seal, dissolve any combination of unions or parishes, or unions and parishes, formed under the Poor Law Amendment Act, 1844, into districts for the purpose of providing and managing asylums for the temporary relief and setting to work therein of destitute houseless poor, and, prior to issuing any such order of dissolution, may empower, by their order, the board of management of such district to pay and apply any funds in their possession in discharge of any liabilities then outstanding against such board, and to sell and dispose of any land, buildings, or other property belonging to them, and to apply the produce of the same to the like purpose; and any surplus that may remain after satisfying all liabilities shall be returned to the several unions and parishes in proportion to their original contributions.

Poor Law Board may dissolve any asylum district formed under 7 & 8 Vict. c. 101;

and may order sale of its property, &c.

XV. The conveyance of such property by the acting members of the said board of management of any such district, when approved and sealed by the Poor Law Board, shall be deemed valid, notwithstanding any defect which may exist in the number required to constitute such board of management.

Conveyance of such property.

XVI. And whereas provision is made in the Poor Law Amendment Act, 1844, for the combination of unions or parishes into school districts; and authority is given to the

7 & 8 Vict. c. 101, ss. 40, 44.

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the settlement is, or to some officer of the guardians, such as the workhouse master or the relieving officer. (See the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 2.)

Sect. 13. Note.

See the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 41, as to the formation of asylum districts.

Sect. 14. Note.

The provisions of this section are now superseded. The limit was raised from one-third to two-thirds by the Poor Law Loans Act, 1872 (35 & 36 Vict. c. 2), s. 1; and that enactment was afterwards

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district board, subject to the order of the Poor Law Board, to borrow or raise such sum or sums of money as may be necessary for the purpose of purchasing any site, or purchasing, hiring, or building, and of fitting up and furnishing, a building or buildings for such school; and it is further provided that the principal sum or sums to be raised for the purpose of providing such building or buildings, and charged on any union or parish not included in a union, shall in no case exceed one-fifth of the average annual amount of the aggregate expenditure relating to the relief of the poor within any union, or of the like expenditure within any such parish, for three years ending the twenty-fifth day of March next preceding the raising of the money: And whereas by the Poor Law Amendment Act, 1850, section three, with reference to school districts situated within the Metropolitan Police District, the cost of the site of any such school may be borrowed over and above the amount so limited as aforesaid: And whereas it is expedient with respect to such last-mentioned school districts that the limit of expenditure fixed by the Poor Law Amendment Act, 1844, should be enlarged: Be it therefore enacted, that in respect of any school district situated within the said Metropolitan Police District such limit shall be enlarged from one-fifth to one-third.

13 & 14 Vict. c. 131, s. 3.

7 & 8 Vict. c. 101.

Enlargement of limit of expenditure for school buildings in Metropolitan Police District.

Provision for sale, &c. of property of school districts.

XVII. The board of management of any school district may in like manner, and subject to the like order, rules, and regulations of the Poor Law Board, as in the case of the guardians of a union, exchange, demise, sell, or otherwise dispose of any land belonging to the said district, and apply the rents or produce of any such exchange, sale, or disposition for the benefit of the said district in such manner as the said Poor Law Board shall direct.

Assaults on officers.

13 & 14 Vict. c. 101, s. 9.

XVIII. The provision in the Poor Law Amendment Act, 1850, section nine, relative to assaults upon certain poor law

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repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, which repealed all enactments touching the purposes for which and amounts to which guardians or managers of school districts might borrow and, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), now regulates the borrowing powers of guardians and managers of school districts.

Sect. 17.

Note.

For the powers of guardians to sell property belonging to a parish or union, see the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 3, and the Parish Property and Debts Act, 1842 (5 & 6 Vict. c. 18), which powers are, so far as the same are exercisable in respect of rural parishes having parish councils, transferred to such councils by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*d*).

Sect. 18.

Note.

"Officer" is defined in sect. 109 of 4 & 5 Will. 4, c. 76.

officers in the execution of their duties, or upon persons acting in their aid, shall extend to an assault upon any person included under the word "officer" in the Poor Law Amendment Act, 1834, or upon any other person acting in his aid. Sect. 18. 4 & 5 Will. 4, c. 76.

XIX. The several words used in this Act shall be construed in the manner prescribed by the Poor Law Amendment Act, 1834, and the statutes explaining and extending it; and all the provisions of the said last-mentioned Act and of the said statutes not repealed shall extend to this Act, except where any provision would be inconsistent with anything herein contained. Construction of terms. 4 & 5 Will. 4, c. 76.

XX. This Act shall extend only to England and Wales. Extent of Act.

[*Schedule:* Repealed by the S. L. R. Act, 1875.]

JUSTICES JURISDICTION ACT, 1852.

15 & 16 VICT. CHAP. 38.

An Act to explain Two Acts of the Twelfth and Thirteenth Years of the Reign of Her Majesty, concerning the Appointments of Overseers, and the Authority of Justices of the Peace to act in certain matters relating to the Poor in Cities and Boroughs. [30th June, 1852.]

[Preamble recited the Poor Law (Overseers) Act, 1849 (12 & 13 Vict. c. 8), s. 1, and the Poor Law (Justices Jurisdiction) Act, 1849 (12 & 13 Vict. c. 64), s. 1, and that doubts existed as to the meaning of the said statutes with reference to the justices who are competent to act under the same.]

[I.] In any city or borough all justices of the peace, whether of such city or borough or of the county, riding, or division comprising the same or adjoining thereto, who shall otherwise have jurisdiction to act in any matter arising within such city or borough, shall be deemed to be competent to act therein under and by virtue of the said statutes in all respects. Jurisdiction of borough justices under recited Acts.

Sect. 1. Note.

See also, as to the jurisdiction of borough magistrates, the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 158.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 27, where a union extends into several jurisdictions every matter, &c., by which the guardians are affected, is for the purpose of jurisdiction to be deemed to arise and exist equally throughout the union.

COUNTY RATES ACT, 1852.

15 & 16 VICT. CHAP. 81.

An Act to consolidate and amend the Statutes relating to the Assessment and Collection of County Rates in England and Wales.* [30th June, 1852.]

[Preamble recited that it was expedient to amend the laws relating to the assessing and collection of county rates and to consolidate the statutes relating thereto.]

[Sect. 1 *repealed numerous previous enactments relating to county rates:* Repealed by the S. L. R. Act, 1875.]

Justices at sessions to appoint committees for preparing a basis or standard for assessing county rates.

II. From and after the passing of this Act, it shall be lawful for Her Majesty's justices of the peace of every county in England and Wales assembled at their general or quarter sessions of the peace or at any adjournment thereof, from time to time, as often as they may deem it necessary, to appoint any number of justices, not exceeding eleven in number nor less than five, to be a committee for the purpose of preparing a basis or standard for fair and equal county rates, such basis or standard to be founded and

* Sects. 1—20, and 40—43, are repealed by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77, as to so much as relates to the preparation of a basis or standard of county rate for any part of the metropolis; and by sect. 45 of that Act, the metropolitan valuation lists are made conclusive for purposes of the county rate.

Sect. 2.

Note.

This section is repealed by the S. L. R. Act, 1892, but the rest of the Act is not intelligible without it.

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (1), all business of quarter sessions or of any committee appointed by quarter sessions in respect of the making, assessing, and levying of the county rate, and the preparation and revision of the basis or standard for the county rate is transferred to the county council; but by sect. 8 of that Act it is provided that nothing in that Act shall transfer to a county council any business of the quarter sessions or justices in relation to appeals against the basis or standard for the county rate, or against that or any other rate.

A committee is now appointed by each county council in the manner and for the purposes described in this section, and references in this Act to "the committee" must be read as applying to the committee so appointed by the county council.

Under this section it has been held that tenants in ancient demesne are liable to pay county rates, as they are liable for poor rates, though exempt from taxes and tollages granted by Parliament to the Crown (*Reg.* v. *Aylesford, Inhabitants of*, 2 E. & E. 538; 29 L. J. M. C. 83; 1 L. T. (N. S.) 328; 6 Jur. (N. S.) 297; 25 J. P. 534).

In a valuation under this section all property, whether occupied or not, must be included (*Reg.* v. *Hammersmith*, 33 L. T. 183; 7 W. R. 524; 24 J. P. 387; *Reg.* v. *Malden*, L. R. 4 Q. B. 326; 38 L. J. M. C. 125; 33 J. P. 645).

prepared rateably and equally according to the full and fair annual value of the property, messuages, lands, tenements, and hereditaments rateable to the relief of the poor in every parish, township, borough, or place, whether parochial or extra-parochial, within the respective limits of the said justices' commissions, or which in any place within such limits not maintaining its own poor would be liable to be rated for the relief of the poor if such last-mentioned place were a parish, or of altering and amending such basis or standard from time to time as circumstances may require: Provided that in counties containing or which may hereafter contain more than eleven petty sessional districts or divisions, the committee so appointed may be extended to a number equal to the number of petty sessional divisions, in order that one justice may be selected from the justices usually acting in each such petty sessional division, if the same shall appear convenient in the opinion of the justices appointing such committtee.

Sect. 2.

[Sect. 3 *regulated meetings of the committee:* Repealed by the S. L. R. Act, 1892. The proceedings of the committee appointed by a county council are regulated by sect. 82 of the Local Government Act, 1888 (51 & 52 Vict. c. 41).]

IV. Such committee may from time to time as they may see fit, appoint a clerk to assist them in the execution of their duties under the provisions of this Act, and may at any time remove such clerk, and appoint another in his stead.

Committee may appoint a clerk.

V. For the purpose of preparing such basis or standard for fair and equal county rates the said committee, by their order in writing, to be signed by their clerk, may from time to time, as often as they may deem it necessary, direct the overseers of the poor, constables, assessors, and collectors of public rates of or for any parish, township, borough, or place within the county, and all other persons having the custody or management of any public or parochial rates or valuations of any such parish, township, or place, to make returns in writing to the said committee, at such times and places as they may appoint, of the amount of the full and fair annual value of the whole or of any part of the property within the parish, township, or place liable to be assessed toward the county rate, together with the date of the last valuation for the assessment of such parish, and the name of the surveyor, or if no surveyor, then

Returns by overseers of the annual value of the property in any parish liable to be assessed, with the date of the last valuation.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Sect. 4.

Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Sect. 5.

In rural parishes the returns will be laid before the parish council, or in small parishes before the parish meeting (Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 6 (1) (*a*), 19 (4)).

Note.

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Such returns to be laid before a vestry meeting previous to their being presented to the committee.

the name or names of the person or persons by whom and the manner in which the said valuation was made; and the overseers of the poor required to make any such return in respect of any parish, township, or place maintaining its own poor, and the constable or other person required to make any such return in respect of any place not maintaining its own poor, shall, before they present the same to the said committee, lay the same before a vestry meeting of the parish, township, or place for which they act, or where no vestry meeting is held, before some other meeting of the inhabitants of such place, if any such there be, at which the public business of such place is commonly transacted.

Meaning of "full and fair annual value."

VI. For the purposes of preparing any such basis or standard for assessing any county rate, the words "full and fair annual value" shall be taken to mean the net annual value of any property as the same is or may be required by law to be estimated for the purpose of assessing the rates for the relief of the poor.

Committee may inspect rates, assessments, valuations, &c.

VII. The said committee may from time to time, as often as they may deem it necessary, by their order in writing, signed as aforesaid, require the said overseers of the poor, constables, assessors, collectors, and any other persons whomsoever, to appear before them, when and where, and as often as the said committee may deem expedient, and to produce all parochial and other rates, assessments, valuations, apportionments, and other documents in their custody or power relating to the value of or assessment on all or any of the property within the several parishes and places aforesaid which may be liable to be assessed toward the county rate, and to be examined on oath, and answer such questions as the said committee may put to them respectively touching the said rates, assessments, valuations, or apportionments, or the value of the property aforesaid; and the said committee shall be authorized and empowered to administer such oath, and to examine the parties

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Sect. 6.

Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

As to the meaning of "net annual value" for poor rate purposes, see the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 1.

Sect. 7.

Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

The provisions of this section apply to private persons as well as to the public officers mentioned in sect. 5; and a person having in his possession private accounts and documents relating to the annual value of certain collieries and coal mines, and being able to give information as to their annual value, is bound to attend when required by the committee, and on refusal, is liable to the penalty imposed by sect. 8 (*Dickson* v. *Doubleday*, 3 E. & E. 501; 30 L. J. M. C. 99; 3 L. T. (N. S.) 663; 7 Jur. (N. S.) 705; 9 W. R. 272).

upon oath as aforesaid; and moreover it shall be lawful for such committee in the like cases from time to time to cause copies of the total amount assessed in each parish, township, or place in respect of any aids or taxes payable to Her Majesty, her heirs, or successors, and the total amount of the valuation of the property on which such assessments were made in any year then elapsed, to be made out by the clerk to the commissioners of each district within the limits of the jurisdiction of such justices. Sect. 7.

VIII. Every overseer of the poor, constable, assessor, collector, or other person so required to make returns, or to appear as aforesaid, who shall, without any reasonable excuse, neglect to make such returns in writing as aforesaid, or wilfully make any false return, and every person who shall neglect or refuse to appear when required so to do as aforesaid, or to be sworn or examined, or to produce such documents as herein-before provided, shall forfeit a sum not exceeding twenty pounds, to be prosecuted for and recovered by order of the said committee before any two of Her Majesty's justices of the peace. Penalty on overseers or others refusing to make returns, or to attend, or produce documents.

IX. That the said committee may from time to time, and so often as they may think fit, by their order in writing, to be signed as aforesaid, direct that the whole or any part of any parish, township, or place within the county shall be valued, and may appoint one or more person or persons to make such valuation; and the person or persons so appointed may at all reasonable times, and with or without assistants, enter upon, view, examine, survey, and measure, all and any lands, houses, or other property within such parish, township, or place liable to be assessed toward the county rate, in order to ascertain the value at which the same ought respectively to be charged. Committee may cause new valuations to be made.

X. If any overseers or other persons neglect to make any such return in writing as aforesaid, or wilfully make any false return or statement of the amount of the full and fair annual value of the property within the parish, township, or place liable to be assessed towards the county rate, any court of quarter sessions, upon the report of the said committee, may order that the whole of the expenses incurred by the said committee in ascertaining the amount of the full and fair If parish officers, &c. neglect to make returns, or make false returns, expenses of valuations to be paid by parishes.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 8.

Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 9.

Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 10.

For "court of quarter sessions" in this section now read "county council" (see note to sect. 2, *supra*).

Note.

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annual value of the same shall be charged upon the parish, township, or place of which the overseers or other persons have been guilty of such neglect or misconduct as aforesaid, in addition to the proportion of the county rate to be paid by such parish, township, or place; and such expenses shall be raised, levied, and collected by such and the like ways and means as county rate can or may be raised, levied, and collected, and shall be paid therewith, due distinction being made, in the case of every such additional assessment, between the sum or sums charged for any such expenses and the sum or sums assessed for the county rate.

Costs of valuations directed by committee.

XI. In any case where any committee appointed as aforesaid have directed the whole or any part of any parish, township, or place to be valued, and where, in the basis or standard of rate afterwards allowed and confirmed by any court of quarter sessions upon the report of such committee, such parish, township, or place is rated on a sum greater than the sum set forth in the returns made to such committee by the overseers of the poor, constable, or other person required to make such return in any place not maintaining its own poor, if there be no appeal made, and prosecuted with success, against the basis or standard for the rate on such parish, township, or place, at the quarter session holden next after such confirmation or allowance of such basis or standard, the justices of the peace at such session shall order the overseers, constable, or other person as aforesaid of such parish, township, or place to pay the amount of the expenses incurred in making such valuation; and in any such case as aforesaid, if there be an appeal to the justices of the peace at any quarter sessions against such basis or standard, on the ground that such parish, township, or place is rated on a sum beyond the fair annual value of the property therein, and if on such appeal such basis or standard is confirmed as to such parish, township, or place, or if it be not reduced to or below the sums set forth in the returns made to such committee as aforesaid, the justices of the peace at such session shall order the overseers, constable, or other person as aforesaid of such parish, township, or place to pay the amount of the expenses incurred in making the valuation under the direction of the committee; and such expenses shall be raised, levied, and collected by such and the like ways and means as county rate can or may be raised, levied, and collected, and shall be paid therewith, due distinction being made, in the case of every such additional assessment, between the sums charged for or on account of any such expenses and the sum or sums assessed as and for the county rate.

Sect. 11.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

For "court of quarter sessions" in this section now read "county council" (see note to sect. 2, *supra*).

Sect. 12.

Payment of allowances and expenses.

XII. The said committee from time to time may make such allowances and compensations to their clerk, and to the overseers, constables, collectors, surveyors, and other persons employed in the execution of this Act, as to them shall appear reasonable and proper, which, together with the costs of printing and other expenses necessarily incurred by the said committee in or about the preparing or amending any such basis or standard for county rates, shall be paid, by an order of the court of quarter sessions out of the county stock.

Procedure where basis prepared by committee differs from last preceding basis.

XIII. When and so soon as the committee appointed as aforesaid have prepared any such basis or standard of county rate in which the total amount of the annual value of the property in any parish or place within the county is estimated at a greater or less amount than in the last preceding basis or standard, they shall cause such last prepared basis or standard to be printed in such form as they may think proper, and shall forthwith cause to be sent, by the general post or otherwise, one copy of the same to every acting justice of the peace for the county, and to the overseers of the poor, constables, or other persons charged with the collection or levy of the county rate in every parish and place within such county; and such overseers of the poor, constables, or other persons shall, within twenty-one days after the receipt of such copy, call a vestry or other meeting of such parish or place, and shall submit the said copy to such meeting; and any person rated to the relief of the poor, or liable to contribute to the county rate, in such parish or place, may at all reasonable times inspect and examine the said copy whilst the same remains in the custody of any such overseer, constable, or other person, and take extracts or copies therefrom, without the payment of any fee for the same.

Time within which objections may be made to proposed basis.

XIV. Together with the copy of such proposed basis or standard there shall also be sent by the said committee to the overseers of the poor or constable of every such parish or place, or other person as aforesaid, a notification of a reasonable time, not less than one calendar month after the date of such notice, within which any objections to the proposed basis or standard may be forwarded to the said committee by such overseers or

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Sect. 12. Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

For "court of quarter sessions" in this section now read "county council" (see note to sect. 2, *supra*).

Sect. 13. Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

In rural parishes the copy of the basis will be submitted to the parish council, or in small parishes to the parish meeting (Local Government Act, 1894, ss. 6 (1) (*a*), 19 (4)).

Sect. 14. Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Sect. 14.

constable or other person as aforesaid, or by any person affected by such basis or standard; and the said committee shall fix and give due notice of a time and place when and where such objections will be taken into consideration by the said committee, and for hearing the parties making such objections.

Consideration of basis by quarter sessions

XV. When any proposed basis or standard for a county rate has been finally corrected and approved of by the said committee, they shall lay the same before the court of quarter sessions holden next thereafter, and such court shall thereupon order public notice to be given, in one or more of the newspapers usually circulated within the county, that such basis or standard will be taken into consideration at the then next quarter sessions to be held for the said county; and at such last-mentioned quarter sessions the court shall proceed to take the same into consideration, and to alter and amend the same as to them may seem proper, and, if they think fit, to allow and confirm the said basis or standard, or, instead of making any alteration in the said basis or standard, or of allowing and confirming the same, to refer back the said basis or standard for amendment to the said committee, and to adjourn the consideration thereof to some future quarter session; and in such last-mentioned case the said committee shall have the same powers and authorities for requiring returns and ascertaining the value of property liable to be assessed toward the county rate, in order to the revising or amending of the said basis or standard so referred, as are herein-before given to them for preparing the same; and all the clauses and provisions herein-before contained for preparing any basis or standard shall be applicable in every respect to the revision or amendment of the same; and any amendment or alteration by the said committee of such basis or standard so referred shall be reported and taken into consideration at the quarter session; but before any such alteration or amendment made by the said committee of the said basis or standard so referred be allowed or confirmed by the court of quarter session, the said committee shall send at least fourteen days' previous notice thereof, by post or otherwise to every parish and place with respect to which such alteration or amendment is made.

Basis to be valid after confirmation by quarter sessions.

XVI. When the court of quarter session have so allowed and confirmed any basis or standard for a county rate, the same

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Sect. 15.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

For "court of quarter sessions" now read "county council" (see note to sect. 2, *supra*). The rest of the section must be adapted to the change of the authority.

Sect. 16.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

For "court of quarter session" now read "county council" (see note to sect. 2, *supra*).

Sect. 16.

shall be taken to be made and established, and shall be valid, legal, and effectual, to all intents and purposes, notwithstanding any irregularity may have arisen in the making thereof, and notwithstanding the officers of any parish or place may have omitted to make the returns herein-before mentioned, subject nevertheless at all times to appeals against the same, as herein-after provided; and the said court shall cause copies of the said basis or standard, after allowance and confirmation, to be printed, and shall direct one of such copies to be sent to every acting justice of the peace for the county, and one copy to the overseers of the poor, constable, or other person charged with the collection and levy of the county rate in every parish and place within the said county; and such basis or standard so confirmed shall be deemed and taken to be the basis or standard and the proportion in which all assessments of the county rate shall thenceforth be made, subject to such alterations as may be necessary in consequence of any appeal, or the recommendation of the county rate committee, as herein-after enacted: Provided always, that any basis or standard now in force or hereafter to be allowed and confirmed shall continue to be in force and to be acted upon, subject to any alteration to be made by reason of any appeal or otherwise, as in this Act provided for such alteration, until a new basis or standard for a county rate shall have been made and established under this Act.

Appeal against basis.

XVII. If at any time after the said basis or standard has been allowed, confirmed, and made as aforesaid, any overseer or overseers of the poor, or other person charged with the collection and levy of county rate in any parish or place, or inhabitant or inhabitants thereof, have reason to think that such parish, township, or place is aggrieved by any such basis or standard, whether it be on account of some one or more of such parishes, townships, or places being without sufficient cause omitted altogether from the said basis or standard, or on account of such parish, township, or place being rated on a sum beyond the full and fair annual value of the property therein liable to be assessed toward the county rate, or on account of some other parish or parishes, township or townships, place or places, being rated on a sum less than the full and fair annual value of the property therein liable to be assessed toward the county rate, such overseer or overseers of the poor, constable, or other person, or inhabitant or inhabitants, may appeal to the justices of the peace for the county at any quarter sessions to be holden after the sessions at which such basis or standard was allowed and confirmed, against such part only of the said basis or

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Sect. 17.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

The jurisdiction of the quarter sessions to hear and determine appeals against the basis is retained by the Local Government Act, 1888, s. 8.

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standard as may affect the parish or parishes, township or townships, place or places which appear to be over-rated or under-rated, or omitted altogether from the said basis or standard as aforesaid (subject to the provisions herein-after contained); and if in any case where any overseer or overseers, constable, or other person as aforesaid of one parish or place appeals against the basis or standard of rate on any other parish or place, on account of the same being altogether omitted from such basis or standard, or on account of the same being rated at less than the full and fair annual value thereof as aforesaid, such overseer or overseers, constable or other person shall give twenty-one days' notice in writing previous to the first day of the said session at which such appeal shall be made, of the intention to appeal, and of the cause and matter thereof, to the overseers of the poor, or where there are no such overseers to the person charged with the collection and levy of county rate in such other parish or place, and if in any case where any such overseer or overseers, constable or other person appeal against the said basis or standard on the ground that any parish, township, or place is rated on a sum beyond the full and fair annual value of the rateable property therein, such overseer or overseers, constable, or other person shall give twenty-one days' notice thereof in writing, with the cause and matter thereof, to the clerk of the peace of the county, the said justices shall be empowered to hear and determine such appeal in manner by this Act directed, and either to confirm such parts of the basis or standard as have been appealed against, or to correct such inequalities or omissions as shall be proved to exist therein, in such manner as to them the said justices may appear fair, just, and equitable; but no such basis or standard shall upon any appeal be quashed or destroyed, in regard to any other parish, township, or place, unless in cases where the justices of the peace in quarter sessions assembled, or the major part of them, deem it necessary to proceed to the making of an entire new basis or standard, and where they proceed therein according to the provisions of this Act.

Court may adjourn the appeal and order a new survey and valuation to be made.

XVIII. It shall be lawful for the court of quarter session upon any such appeal, instead of hearing the said appeal, to adjourn the same, and to order, upon the application of the appellant or respondent in such appeal, a survey and valuation of any of the parishes, townships, or places, or any parts thereof, in respect of or relating to which any such appeal shall be made, and to fix the next or some subsequent session for receiving such survey and valuation, and for hearing and determining the said appeal, and such court shall also thereupon appoint a proper person or persons to make such survey and

Sect. 18.

Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

valuation; and the person or persons so appointed shall for that purpose have full power, with or without assistants, to enter upon, view, and examine, survey, measure, and value all and any lands, houses, and property liable to be assessed toward the county rate within the parishes, townships, and places mentioned in such order; and such survey and valuation shall be reported to the quarter session, or adjournment, fixed as aforesaid for receiving the same; and the court then and there assembled shall hear and determine the said appeal in the manner herein-before set forth. Sect. 18.

Costs of survey to be costs in appeal.

XIX. The charges and expenses of and attending any survey and valuation ordered to be made by any court of quarter sessions in such appeal as aforesaid shall be deemed costs in such appeal, and abide the event thereof; and the court before which any such appeal is heard and determined may order the costs in and about such appeal to be paid by either party, appellant or respondent, as they in their discretion may think fit; but where any appeal is made on the ground that any parish, township, or place is rated on a sum beyond the full and fair annual value of the property therein, if the court before which such appeal is heard determine in favour of the appellants, such court shall ascertain the costs and charges incurred by such appellants in and about such appeal, and shall order the treasurer of the county rates to pay the same to such appellants out of the public stock of the county in his hands.

Payment of costs of appeal.

Committee may revise basis or standard from time to time.

XX. Although no appeal shall be made as aforesaid, it shall be competent to any committee appointed as herein-before provided, and upon being so required by the court of quarter sessions, from time to time to revise any such basis or standard for a county rate being then in force in any county, for the purpose of meeting any partial changes that may have occurred in the rateable value of portions of the property liable to be assessed, and to call for information, and to exercise all the powers herein-before authorized, and if, after due inquiry and investigation, it shall seem fit to such committee to alter such basis or standard, they shall forthwith give notice in writing of such alteration to any parish or place whose basis or standard they propose to alter, whether by diminishing or increasing it, and shall, upon some day to be named in such notice, hear and decide upon any objection that may be made by any person on behalf of such parish or place; and upon the decision of such committee as aforesaid to alter such basis or standard, they shall report such alteration to the next or some subsequent general or quarter sessions, having given to each parish or place whose

Sect. 19.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

Sect. 20.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

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basis or standard is altered by such report notice thereof in writing not less than ten days previous to such sessions, and the justices assembled thereat, after hearing the objections, if any, that may be made by any person duly authorized to represent any such parish or place, may make such order as to them shall appear just for ascertaining and deciding upon such proposed alteration, and any order so made shall be binding upon all parties concerned.

Justices in general or quarter sessions to make a fair and equal county rate, whenever circumstances appear to require it.

XXI. It shall be lawful for the justices of the peace of the several counties, or divisions of counties in England and Wales, assembled at their quarter sessions, or at any adjournment or adjournments thereof, and they are hereby authorized and empowered, whenever circumstances shall appear to require it, to order and direct a fair and equal county rate to be made, for all the purposes to which the county stock or rate is now or shall hereafter be made liable by law, according to the basis or standard for the time being in force in such county or division of a county; and for that purpose to assess and tax every parish, township, and other place, whether parochial or extra-parochial, within the respective limits of their commissions, or within such divisions rateably and equally, according to a certain pound rate (to be from time to time fixed and publicly declared by such justices), upon the basis or standard hereinbefore mentioned, of the full and fair annual value of the property, messuages, lands, tenements, and hereditaments rateable to the relief of the poor therein, or which in any place not maintaining its poor would be liable to be rated for the relief of the poor if the said last-mentioned place were a parish, any law or statute to the contrary thereof notwithstanding; and the justices of the peace shall in all cases where the same may be necessary appoint proper persons within such extra-parochial or other places for the assessing, taxing, and rating such extra-parochial property, messuages, lands, tenements, and hereditaments, and levying, collecting, and paying over such assessment, taxes, or rates.

Appointment of persons to make assessments, &c. in extra-parochial places.

Parishes aggrieved may appeal.

XXII. If the churchwarden or churchwardens, overseer, or overseers of the poor, or other inhabitant or inhabitants of any

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Sect. 21.

Note.

For "justices of the peace in quarter sessions" now read "county council" (see note to sect. 2, *supra*).

Sect. 22.

Note.

The powers and duties of churchwardens under this section are now vested in the overseers alone (Local Government Act, 1894, sect. 5 (2)).

It was no ground for an appeal against a county rate that individuals in one parish were rated in a higher proportion than in another (*Rex* v. *Westmoreland JJ.*, 10 B. & C. 226; 8 L. J. (o. s.) M. C. 70).

Sect. 22.

parish, township, or place, whether parochial or otherwise, where there is no churchwarden or overseer, or person appointed to act as such, shall at any time thereafter have reason to think that such parish, township, or place is aggrieved by any rate or assessment now existing, or hereafter to be made upon the basis or standard herein-before mentioned, either in pursuance of this Act or of any Act or Acts now in force, whether it be on account of the proportions assessed upon the respective parishes, townships, or places being unequal, or on account of some one or more of them being without sufficient cause omitted altogether from the rate, or on account of such parish, township, or place being rated at a higher proportion of the pound sterling according to the fair annual value of the rateable property therein, or on account of some other parish or parishes, township or townships, place or places, being rated at a lower proportion of the pound sterling according to the fair annual value of the rateable property therein than has been fixed and declared by the justices of the peace of the said county in sessions assembled as the basis of the rate of the said county, or on account of the altered state of the value of the property assessed, or any part thereof, or shall have any other just cause of complaint whatsoever, it shall be lawful for such churchwarden or churchwardens, overseer or overseers, of the poor, or other inhabitant or inhabitants where there is no churchwarden or overseer, or person appointed to act as such, to appeal to the justices of the peace for the county at the next quarter sessions after such cause of appeal shall have arisen, against such part of the rate only as may affect the parish or parishes, township or townships, place or places which are unequally rated, or which shall appear to be over-rated or under-rated, or omitted altogether from the rate: Provided always, that fourteen clear days' notice in writing previous to the first day of such last-mentioned quarter sessions shall be given by the parties intending to appeal to the parties against whose rate the appeal is to be made, also to the clerk of the peace of the county, and the hundred constable, of the grounds of such appeal and the intention to try such appeal at such quarter sessions; and the said justices are hereby empowered to hear and finally determine the same, and either to confirm such parts of the rate as have been appealed against, or to correct such inequalities, disproportions, or omissions as shall be proved to exist therein, as well in respect of the basis or standard as in the assessment of the rate made thereon, in such manner as to them the said justices shall appear fair, just, and equitable, anything in this Act, or any former Act or Acts, or any law, usage, or custom, to the contrary thereof notwithstanding: Provided nevertheless, that upon such appeal no such rate shall be quashed or destroyed in regard to any other parish, township, or place, unless in cases where the justices of the peace of any county in quarter sessions assembled, or the major part of them, shall deem it

Notice of appeal.

Hearing of appeal.

Sect. 22.

necessary to proceed to the making of an entire new rate, and shall proceed therein, according to the provisions of this Act.

Payment of rate pending appeal.

XXIII. The county rate or rates made upon any parish, township, or place (whether extra-parochial or otherwise) shall be paid, and shall and may be levied, recovered, and received, notwithstanding any appeal or appeals may have been made to the quarter sessions against any such rate or rates, and such rate or rates shall continue to be raised, levied, and received until the decision of the justices shall be made upon such appeal or appeals: Provided always, that if upon the hearing of any such appeal or appeals the court of quarter sessions shall order any rate or assessment to be set aside, decreased, or lowered, and it shall appear to the said court that any parish, township, or place have or hath, previously to the determination of such appeal or appeals, paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court shall order such proportion of such sum or sums of money as shall have been so paid by any person or persons, parish, township, or place, subsequently to the notice which shall have been given of such last-mentioned appeal or appeals, to be repaid and returned to the person or persons, parish, township, or place which have or hath paid the same respectively, out of the general rate of the county in which the cause of appeal shall have arisen.

Where quarter sessions lower rate, excess to be returns out of general county rate.

Expenses of appeals or proceedings at law.

XXIV. Save as herein-before otherwise provided, in case of any appeals, actions, suits, or proceedings at law respecting anything done in pursuance of this Act, or any other Act or Acts relating to the county rate, the expenses of all such appeals, actions, suits, or proceedings at law shall be borne and paid by such respective parishes, townships, places, and persons, or such of them, and in such proportions, as the said justices shall, as they are hereby authorized to do, upon any appeal, in their quarter sessions, award and order, or as such courts wherein such actions, suits or proceedings shall be instituted shall, as they are hereby authorized to do, adjudge and order.

Costs where appeal not prosecuted.

XXV. The justices of the peace in their quarter sessions assembled, upon proof before them there to be made of notice of any appeal having been given as herein-before authorized by any churchwarden or churchwardens, overseer or overseers, or other person or persons (though he or they did not afterwards prosecute such appeal), shall and may at the same sessions award and order to the party to whom such notice shall appear to have been given, such costs and charges as by the said justices in their discretion shall be thought reasonable and just to be paid by the churchwardens, overseers, or any other person by whom such notice shall have been given.

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Justices to send lists of parishes assessed to county rates to the overseers, &c. and issue precepts to guardians of unions for the payment thereof.

XXVI. When and as often as the justices of the peace within the respective limits of their commissions in England have made a county rate, a printed list of the parishes and places assessed to such rate, and the amount of the rateable value upon which each such parish and place shall have been respectively assessed, shall be sent to the overseers of the poor, constables, or other persons charged with the collection or levy of the county rate in every parish or place within the county, and such justices assembled at their general or quarter sessions or at any adjournment thereof, shall order precepts in the form shown in the schedule annexed to this Act, or as near thereto as may be, to be issued to the guardians of every union of parishes, of which union any parish is situate within such limits, stating the sum or sums assessed and charged for each such rate on each parish in the union, the whole of which parish is situate within such limits, and to the guardians of every single parish situate within such limits, stating the sum or sums assessed and charged on such parish for each such rate, and requiring the guardians of such union or parish respectively, within such time as may be limited in such precepts, to cause the aggregate of the said several sums so stated to be paid by them, out of the monies held by them on behalf of each such parish, to the treasurer of the county or place for which such justices act, and may cause such precepts to be sent, by post or otherwise, to such guardians; and such precepts shall have force in every such union, so far as concerns such parishes as are within the limits of the commission of the said justices, notwithstanding that the place of meeting of such guardians may not be situated within such limits, and without being indorsed with the signature of any justice of the peace having ordinary jurisdiction in the place of meeting of the guardians; and such guardians shall raise the monies required by such precepts to be paid in like manner as the money required by such guardians for the relief of the poor, and shall pay such monies at the time limited and in the manner prescribed by such precepts; and if the treasurer of such guardians, or any person on his or their behalf, tender to the treasurer of the county or place for which such justices act the aggregate of the said several sums, or if he so tender the whole sum assessed on any such parish or parishes in respect of any such rate or rates, together with a copy of such precept in which are specified the parish or parishes and the rate or rates in respect of which the same is so tendered, the treasurer of the county shall receive the sum so tendered, notwithstanding that the sums required to be paid on behalf of other of such parishes

Guardians to pay such rates.

County treasurer to receive the same.

Sect. 26.

Note.

By the County Rate Act, 1866 (29 & 30 Vict. c. 78), s. 2, the printed lists mentioned in this section are, unless the justices otherwise direct, to be sent only on the occasion when a new basis or standard or an alteration in the existing basis or standard has been allowed and confirmed.

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or of other of such rates be not then tendered, and shall give a receipt for the sum or sums received by him accordingly, but he shall not receive any sum on behalf of any such parish less than the whole of the sum assessed and charged thereon in respect of one such rate; and the receipt of the treasurer of such county or place shall be a good discharge for the payment of the sum specified in any such precept or of any of them.

If the guardians fail to pay such rates, the justices may issue warrants to overseers of parishes, &c. to pay the same with an addition.

XXVII. In case guardians do not pay within the time limited in such precept the sum or sums of money therein required to be paid on behalf of any parish, the said justices assembled as aforesaid may cause to be issued and sent, by post or otherwise, to the overseers of the poor of such parish, or to the petty constable or peace officer, or other person or persons empowered in any place to rate and levy the monies assessed as such county rate, warrants to collect and pay to the treasurer of the county or place in which such justices act, within a time to be named and limited in such warrants, the rate or rates charged on such parish or place respectively, together with an addition to such rate or rates in the proportion of one shilling to every ten; and such additional sum shall be applied and disposed of in like manner as the county rate; and such overseers of the poor, petty constables, peace officers, or other persons may reimburse themselves, as well for such additional sums as for the original amount of rate or rates out of the monies which they are respectively empowered to rate and levy for the purpose of such county rate, but shall not receive or take from the county rate, or any other rate, any allowance or compensation for their trouble or expenses incurred in collecting, levying, or paying such county rate.

Proceedings in case the overseers, &c. fail to pay.

XXVIII. If any overseer, petty constable, peace officer, or other person as aforesaid refuse, make default, or neglect to pay to the treasurer of the county or place within the time limited as aforesaid, the sum or sums of money specified in the said warrants, and if the clerk of the peace or treasurer of the county or place make complaint thereof, then any justice of the peace of such county or place may by warrant under his hand levy the same by distress and sale of the goods of the offender; and the justices assembled as aforesaid may pay to any clerk, constable, messenger, or other person who may have been employed in making such complaint, or in obtaining, drawing, or executing such warrant, such reasonable compensation out of the county stock as to the said justices may seem fit.

Parishes not in arrear with contributions to be reimbursed by those which

XXIX. In every case where any parish comprised in an union has, on or before the day on which any precept as aforesaid should be obeyed, contributed money sufficient to enable the guardians of the union to pay any sum or sums required by such precept in respect of such parish, as well as to provide for

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the immediate relief of the poor of such parish, and to satisfy all other obligations of the said guardians in respect of such parish in force on that day, and where, through the default of any other parish or parishes in the same union in contributing money to such guardians, or through the neglect of such guardians to demand sufficient contributions from any other parish or parishes in the same union, the said guardians have applied the money of such first-mentioned parish to the use of such other parish or parishes, and are thereby rendered unable to pay any money so required by such precept on behalf of such first-mentioned parish, and such parish is by reason thereof compelled to pay the additional sum of one shilling in every ten, as herein-before provided, in every such case the guardians of the union shall reimburse such first-mentioned parish such additional sum, and all costs incurred by reason of the premises, out of the monies of such other parish or parishes which may next thereafter come into the hands of such guardians; and in case more than one parish be in default as aforesaid the said guardians shall charge such additional sum and costs to every such parish, in proportion to the amount of the deficiency of the contribution of each parish respectively on the day on which the said precept should have been obeyed.

are in arrear in case of any additional sum and costs being paid.

XXX. In the case of every parish not comprised within any union, and in which the laws for the relief of the poor are not administered by a board of guardians, and in the case of every parish comprised in a union the guardians of which are not empowered to relieve the poor, and in the case of any parish comprised within a union, or in which the laws for the relief of the poor are administered by a board of guardians, of which parish a part only is situated within the limits of the commission of any justices, for which part no separate rate is levied for the relief of the poor, or where there are no separate churchwardens or overseers of the poor, or where no separate or distinct rate is made and collected for the relief of the poor of any division or part of any parish, township, or place situated in and extending into two or more counties, ridings, or divisions, and in the case of every place not maintaining its own poor; but liable to the payment of county rates as aforesaid, the justices assembled as aforesaid may, so soon as any vacancy occurs in the office of high constable, issue their warrant to the overseers, petty constables, peace officers, or other persons empowered by law to rate and levy county rates in such parish, part of a parish, or place, to pay to the county treasurer, or to transmit to him in such manner as the said justices may from time to time direct, within a time limited in such warrant, the county rate, as aforesaid charged on them, without the agency or intervention of any high constable, and such justices may cause such warrant to be sent by post or otherwise; and in case the said overseers, petty constable, peace officer, or other person refuse or neglect to pay any such rate within the time limited in such warrant, the same

Justices may issue warrants to overseers of parishes, &c. not comprised in unions, or only partly within the jurisdiction of the justices.

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remedy may be had against them as is herein-before provided against overseers, petty constables, peace officers, or other persons refusing, making default, or neglecting to pay to the treasurer of the county or place, within the time limited, the rate or rates charged upon any parish in union, and omitted to be paid by the guardians of such union, in compliance with the precept issued by the justices as aforesaid.

XXXI. "Whereas there are several parishes, townships, hamlets, and places situated in and extending into two or more counties, ridings, or divisions having separate and distinct commissions of the peace, part of such parishes, townships, hamlets,

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Note.

The county of Lincoln is divided into three divisions—Lindsey, Kesteven, and Holland—each of which has, since the Local Government Act, 1888, been, for administrative purposes, a separate county, with a separate county fund, and separate county rates are made and levied in each of them. A ratepayer of a parish, the area of which was, before a local Act passed in 1856, extra-parochial, and situate partly in Holland and partly in Kesteven, sued the overseers of the parish, claiming a declaration that if a county rate, assessed in respect of lands in the parish which before 1856 were in Holland, should be paid in the first instance out of the poor rate for the entire parish, the defendants ought to reimburse the amount so paid out of the poor rate by a separate rate levied upon the occupiers of such land only; and he sought a similar declaration with regard to a county rate assessed in respect of lands in the parish which were, before the Act of 1856, situate in Kesteven. By the Act of 1856 this extra-parochial area was constituted a parish, and was to be deemed to be altogether in Holland, and the laws in force for the relief of the poor in England were to be enforced therein in like manner as in other parishes, and by sect. 52 it was provided that "the county rate now payable in respect of the lands comprised in the parish should continue to be paid and payable to the respective treasurers of the rates for Kesteven and Holland within which such lands are situate." Before the passing of the Act of 1856 the justices in quarter sessions for each division were in the habit of assessing the part of the area in their division, and the rate in each part was collected by a separate collector appointed by the justices for the purpose under sect. 21 of the County Rates Act, 1852. After it became a parish it became included in Spalding Union, and under sect. 34 of the County Rates Act, 1852, the precepts of the two counties were addressed to the guardians by the two county authorities. The guardians then in the usual way sent on their order to the overseers requiring them to levy and pay the sums required for the common fund, including the sums required to satisfy the two precepts.

The plaintiff complained that the defendants simply paid all these amounts out of the poor rate without regard to the fact that a separate rate should be made on each part of the parish for the county rate payable in respect of that part; and, as the rate in Holland was $1\frac{1}{2}d.$ in the pound, and that in Kesteven $5\frac{1}{2}d.$ in the pound, the ratepayers in Holland objected to contribute in any way towards the sum which they alleged was chargeable to the part of the parish which was situate in Kesteven. *Held* by

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and other places being situated in one county, riding, or division, and other part or parts thereof in another county or other counties, riding, or ridings, division or divisions, and the messuages, lands, tenements, and hereditaments situated in such parishes, townships, hamlets, or other places are rateable to the relief of the poor therein, and to the county rates of the respective counties, ridings, or divisions in which such messuages, lands, tenements, and hereditaments are respectively situated, but the constables, churchwardens, and overseers are appointed for the whole of such parishes, townships, hamlets, or places, and it frequently happens that such constables, churchwardens, and overseers are resident in one division of such parishes, townships, hamlets, or other places, and that there are no constables, churchwardens, or overseers residing in the other division thereof, or within the limits of the jurisdiction of the justices making such county rate or rates, whereby considerable difficulties have in such cases arisen in raising the county rates in such divisions:" For remedy whereof, be it enacted, that from and after the passing of this Act all and every the powers and provisions, clauses, pains, penalties, and forfeitures, given, granted, provided, made, or imposed by this Act, shall extend, and be deemed, construed, and taken to extend, to all cases and places as aforesaid where there are no separate churchwardens or overseers of the poor, or where no separate or distinct rate is made and collected for the relief of the poor of any such division or part of any parish, township, or place situated in and extending into two or more counties, ridings, or divisions, as aforesaid; and that all and every the constables, churchwardens, and overseers of any such parishes, townships, hamlets, or other places as are situated in and extend into two or more counties, ridings, or divisions, having separate and distinct commissions of the peace as aforesaid, shall be subject to the precepts, warrants, orders, and directions of the several justices of the peace for the respective divisions or parts of such parishes, townships, hamlets, or other places, so far as the same may relate to the making of the returns hereinbefore required, and the assessing, levying, and collecting of the proportion of the county rate for such respective divisions or parts of such parishes, townships, hamlets, or other places, or otherwise to the execution of this Act, within the parts of such parishes, townships, hamlets, or other places as shall be situated within the limits of the jurisdiction of the justices making and issuing such precepts, orders, warrants, and

Powers of Act to extend to places extending into two or more counties, &c. where there are no separate churchwardens, &c., or where no separate or distinct poor rate is made.

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Note.

Stirling, J. (after going through the 21st, 26th, 31st, 32nd, 33rd and 34th sections of the County Rates Act, 1852), that the plaintiff was right in his contention; that the effect of sect. 52 of the local Act was to bring the parish under the combined effect of sects. 31 and 34 of the County Rates Act; and that the plaintiff was entitled to the relief claimed (*Att.-Gen.* v. *Deeping St. Nicholas, Overseers*, 62 L. J. Ch. 188; 68 L. T. 278; 57 J. P. 196).

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directions, and shall be subject to the same fines, penalties, and forfeitures for neglect and disobedience of the precepts, warrants, orders, and directions of such justices, so far as the same shall relate to the matters aforesaid or any of them, or otherwise to the execution of this Act as such constables, churchwardens, and overseers, or other officers would by the laws now in force be subject and liable to if such constables, churchwardens, overseers, or other officers had resided within the limits of the jurisdiction of the justices making and issuing such precepts, warrants, orders, and directions: Provided always, that nothing herein contained shall extend, or be construed, deemed, or taken to extend, to authorize any justice or justices of the peace to act in the cases aforesaid, or any of them, beyond the limits of the jurisdiction within which he or they shall be generally appointed and authorized to act as such justices.

Justices not to act beyond their jurisdiction.

Collection of rates in parishes partly within boroughs.

XXXII. Where any parish or place separately maintaining its own poor shall be divided, so that a part is comprised in a borough not subject to contribute to the county rate, while the part out of the borough is liable to contribute thereto, and any county rate shall be assessable upon the part of the parish or place which is comprised within the county and excluded from the borough, the overseers of such parish or place shall, on receipt of any precept or other lawful demand from the justices of the county, or other due authority in that behalf, demanding the payment of any sum of money as the contribution of the part of such parish or place out of the borough towards any such rate as aforesaid, with all convenient speed assess the sum so required upon the persons liable within such part of the parish or place to pay the poor rate therein, by means of a separate rate, to be made, allowed, and published in like manner as the poor rate, and either by themselves or by the collector of poor rates for the time being appointed for the said parish or place shall collect the same separately or with the poor rate payable by the parties assessed thereto, and for the purposes of assessing and collecting the same shall have all such powers, authorities, privileges, protections and incidents as belong to them in the assessing and collection of the poor rate; and all provisions of the law for enforcing the collection of the poor rate, and recovering the costs of the proceedings therein, shall be applicable to the collection of the rate or rates herein last above mentioned and provided for.

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Note.

Under the provisions of the Local Government Act, 1894, s. 1 (3), parishes which were partly in boroughs and partly in rural sanitary districts are divided into separate parishes. The operation of the present section therefore has been greatly restricted. Before the Local Government Act, 1894, this section only applied to parishes partly within such boroughs as were liable to contribute to the county rate (*Reg.* v. *Huddersfield*, 1 B. & S. 961; 31 L. J. M. C. 131; 7 L. T. (N. S.) 157; 8 Jur. (N. S.) 697; 26 J. P. 692).

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Appeal against the rate, and audit of the accounts of the overseers.

XXXIII. Any person assessed to any rate made under the authority of the provisions last herein-before contained may appeal against the same, in like manner, and with the like consequence in all respects, and subject to the same provisions and regulations, as in appeals against the poor rate; and every overseer and collector shall account for the money levied, collected, and expended under the authority of this Act to the auditor of the district comprising such parish or place, in like manner as for the poor rate, and if any balance be found to be in his hands shall apply the same towards the next county rate required for the like purpose of this Act, or shall pay the same to his successor in office; and in default of his so applying the same while in office, or making payment to his successor within seven days after the balance shall have been found, such auditor shall proceed to recover the same from the person holding the same, in like manner as sums certified by him to be due from persons accounting shall from time to time be recoverable, and he shall be paid his costs and expenses when not recovered from the defendant, by the then overseers of the parish or place, who shall be reimbursed out of the balance of such rate, or, if need be, out of the next rate.

Mode of procuring the funds when the precept is sent to the guardians of the union comprising any divided place.

XXXIV. Where a precept shall be issued to the guardians of the union comprising any such parish or place, under the provisions in that respect herein-before contained, and such precept shall contain a sum to be assessed and charged in respect of any such rate as is herein provided for upon a part of such parish or place as aforesaid, the said guardians may require the overseers of such parish or place to pay to their treasurer a sum of money sufficient to enable the said guardians to pay the sum so assessed, with the other sums mentioned in the said precept, to the treasurer of the county or other person lawfully authorized to receive it; and the said overseers shall pay the amount out of any monies in their possession belonging to the parish or place, or to the part of such parish or place respectively, and reimburse themselves, if necessary, by a rate, to be levied as herein-before described, upon the persons liable thereto, or, if they have no such monies, shall forthwith proceed to levy and collect the requisite amount by such rate, and pay the same over to the treasurer of the said guardians: Provided nevertheless, that if such overseers make default, and do not make the requisite payment within the appointed time, they shall be subject to be proceeded against in like manner as the overseers of a parish wholly situated within the county are subjected to under the provisions of this Act.

Where the county rate is small, the rate for reimbursement of the overseers may be postponed.

XXXV. Where the amount required in respect of any such county rate from any part of such parish or place as last aforesaid shall, in the judgment of such overseers, be so small as to render the levying and collecting of a separate rate for it inconvenient, the overseers may postpone the reimbursement

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of themselves for any such advance as aforesaid, and they or their successors may afterwards, on the recurrence of the next precept or other lawful demand, or of that next but one, levy and collect such a rate as aforesaid to raise the whole amount so previously advanced and unsatisfied out of the poor rates of the parish, as well as the amount required by the then precept or demand, and shall apply the sum so collected in reimbursement of the previous payments, and the satisfaction of such precept or demand, and shall apply the balance, if any, towards the discharge of the next precept or demand.

[Sect. 36. *Mode of collection where the office of high constable has not become vacant:* Repealed by the S. L. R. Act, 1892.]

[Sect. 37. *High constable to give security:* Repealed by the S. L. R. Act, 1892.]

[Sect. 38. *Mode of enforcing repayment by borough treasurers of money expended by counties out of the county rates:* Repealed by 45 & 46 Vict. c. 50, s. 5.]

Delivery of precepts, &c. and evidence thereof.

XXXIX. Whenever precepts or warrants, as provided by this Act, are to be sent by post, the clerk of the peace shall send every such precept or warrant by post as a registered letter, according to the regulations of the Postmaster-General in force for the time being in that behalf; and every precept or warrant delivered or tendered as a registered letter at the address of the person to whom it is addressed, whether a receipt be given for the same or not, shall be deemed to have been served on the person to whom the same was so delivered or tendered; and if delivered or tendered to the clerk or other like officer acting for any guardians, shall be deemed to have been served on the whole of such guardians; and if delivered or tendered to any one overseer of a parish, shall be deemed to have been served on the whole of the overseers of such parish.

Quarter sessions to appoint justices to fix and determine boundaries.

XL. The justices of the peace of counties, and ridings and divisions and parts of counties, and other places of distinct and separate jurisdiction, in that part of Great Britain called England, assembled at their several and respective general or quarter sessions of the peace, or at any adjournment thereof, shall be and they are hereby authorized, and required, in any case in which any question or doubt does or shall exist or shall have arisen, or may, in the judgment of the said justices be likely to arise, as concerning any boundary between any counties, ridings, divisions, or parts of any county, or other places of distinct and separate jurisdiction for which they respectively act as such justices, to nominate and appoint two justices of the peace of each such county, riding, division, or parts of any county, or other places of distinct and separate

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Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

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jurisdiction between which the boundary is required to be ascertained, for the purpose of fixing and determining such boundary, and the clerks of the peace, town clerks, and other proper officer of the several and respective general or quarter sessions of the peace at which such justices shall be appointed, shall forthwith give notice to each other and to such justices of such appointment, and the justices so appointed shall in every such case, as soon as may be after their appointment, meet and proceed to ascertain the boundary upon such evidence as can be obtained by them, or as they shall deem necessary for that purpose, either by examination of witnesses upon oath (which oath any one of the said justices is hereby empowered to administer), or of any maps, plans, surveys, or any other records, or documents, or in such other manner as they the said justices so appointed shall think requisite, and it shall be lawful for such justices, or for any person authorized under the hand of any three or more of such justices, to enter upon any lands, grounds, or premises, for the purpose of examining the same, or making any measurement, maps, or plans thereof, for the purposes aforesaid; and it shall be lawful for the said justices to summon any witnesses to be examined in that behalf, and to impose any penalty or forfeiture not exceeding ten pounds upon any witness who shall, without reasonable excuse, refuse or neglect to attend to be examined upon any such summons; and such justices shall thereupon fix, ascertain, and determine the boundary so referred to them to be ascertained, and shall cause the boundary so fixed and determined to be laid down on two maps or plans, to be signed by the said justices so appointed as aforesaid, which shall be deposited with the clerks of the peace, town clerks, or other proper officer for the counties, ridings, divisions, or parts of counties, or other places of distinct and separate jurisdiction between which such boundary shall be so fixed and determined, and which maps and plans shall be kept amongst the records of their respective sessions, and shall be received as evidence of such boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties, ridings, divisions, or parts of counties, or other places of distinct and separate jurisdiction, for which the same shall have been so ascertained, for all the purposes of this Act, and the carrying the provisions thereof into execution, anything contained in any other Act or Acts of Parliament relating to such counties, ridings, divisions or parts of such counties, or other places of distinct and separate jurisdiction, or any law, usage, or custom to the contrary notwithstanding.

Appointment of new justices in case of death, &c.

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XLI. If any of the four justices so appointed as aforesaid, or who shall be appointed in manner herein-after mentioned, shall,

Note.

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

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before the execution of all the powers and authorities hereby in them respectively vested, die, decline, or refuse to act, or become incapable of acting, the justices of the peace of counties, ridings, divisions, and parts of counties, and other places of distinct and separate jurisdiction, assembled at their several and respective general or quarter sessions of the peace or at any adjournment thereof from which such justice so appointed or to be appointed shall die, decline, refuse to act, or become incapable of acting, shall and they are hereby authorized and required to appoint another justice in the room of him so dying, declining, refusing to act, or becoming incapable of acting as aforesaid, and so from time to time as often as any justice so to be appointed as last aforesaid shall die, decline, or refuse to act, or become incapable of acting; and every justice to be appointed as aforesaid shall have the like power and authority as the justice in whose place he shall be appointed was invested with by virtue of this Act: and that notice shall be given by the clerks of the peace, town clerks, or other proper officer to such justice of his appointment, in manner herein-before directed.

In case of difference between justices, a referee to be appointed to meet them and determine boundary.

XLII. If it shall happen that the justices so appointed to fix, ascertain, and determine the boundaries as aforesaid shall disagree in opinion touching the boundary between any county, riding, division, or parts of any county, or other place of distinct and separate jurisdiction, so referred to them under and by virtue of this or the said recited Act, and there shall be an equality of votes, so that the said justices cannot make any determination thereon, then and in such case the said justices, or the major part of them, shall forthwith appoint under their hands such person as they may think proper to act as referee, which person so appointed as referee shall, within twenty-one days from the receipt of such appointment, fix a time and place to meet such justices; and at such meeting the said person so to be appointed as referee as aforesaid shall, together with the said justices to whom any boundary shall be referred to be ascertained as aforesaid, proceed to fix, ascertain, and determine the boundary about which such disagreement shall take place amongst them the said justices in such and the same manner and with such and the like powers in all respects as herein-before expressed, and that the determination and decision of the said justices, and of the person whom they shall appoint as referee as aforesaid, or of the major part of them, shall be for ever binding and conclusive; and that the said justices, and the person whom they shall appoint as referee as aforesaid, or the part of them, shall cause the boundary so fixed and determined to be laid down on two maps or plans, to be signed by

Sect. 42. Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note. The "recited Act" was the 5 & 6 Will. 4, c. 50, which was recited in the repealed sect. 38. The reference must now be taken to be the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

the said justices and the person so appointed as referee as aforesaid, or by the major part of them, which shall be deposited with the clerks of the peace, town clerks, or other proper officer as herein-before directed, and kept amongst the records of their respective sessions, and shall be received as evidence of such boundaries; and such boundaries so fixed and determined shall be and be deemed the boundaries between the respective counties, ridings, divisions, or parts of counties, or other places of distinct and separate jurisdiction for which the same shall have been so ascertained, for all the purposes of this and of the said recited Act, and the carrying the provisions thereof respectively into execution, anything contained in any other Act or Acts of Parliament relating to such counties. ridings, divisions, or parts of such counties, or other places of distinct and separate jurisdiction, or any law, usage, or custom, to the contrary notwithstanding. Sect. 42.

XLIII. Nothing in this Act contained, nor any proceedings under the same, shall extend or be construed to extend to determine any question of boundary for any purpose except for the purpose of assessing, collecting, and levying rates according to the provisions of this Act and of the said recited Act. Act not to determine any question of boundary except for rating purposes.

[Sect. 44. *Limitation of actions:* Repealed and replaced by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).]

XLV. Every person who in any manner wilfully resists or obstructs any overseer, collector, surveyor, or other person in the execution of his or their duty under this Act shall forfeit and pay any sum not exceeding five pounds, to be prosecuted and recovered before any two or more of Her Majesty's justices of the peace for the county wherein the offence is committed. Penalty on persons obstructing overseers, &c.

[Sect. 46. *Enforcement of penalties and forfeitures:* Repealed by 47 & 48 Vict. c. 34, s. 4.]

[Sect. 47. *Counties where rates are governed by special Acts empowered to use this Act.* Sect. 48. *Business as to assessments to be transacted in open court.* Sect. 49. *Notice of such business to be given.* Sect. 50. *Treasurer of counties, &c., to publish abstract of receipts and expenditure every year:* Repealed by the S. L. R. Act, 1892.]

LI. In the construction of this Act the word "county" shall mean and include any riding or division having a separate Interpretation of terms: "County";

Repealed as to the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 43.

As to the "recited Act," see note to sect. 42, *supra*. Note.

A quarter sessions borough with a non-intromittant clause was held to come within the definition of a "county" under this Sect. 51. Note.

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commission of the peace, or separate county treasurer, and any liberty, franchise, or other place in which rates in the nature of county rates may be levied, having a separate commission of the peace, and not subject to the jurisdiction of the county or counties at large in which such liberty, franchise, or place may lie, nor contributing or paying to the county rates made for such county or counties at large; and that the words "county rate" shall mean and include every rate or tax assessed in any county or any division of a county as aforesaid for all or any of the purposes to which county rate or stock is or may hereafter be made liable.

"county rate."

Interpretation of terms:

LII. The word "parish" shall be construed to include any township, vill, or place maintaining its own poor, whether parochial or extra-parochial, or any part of a parish, township, vill, or other place for which a separate poor rate may be made; the word "union" shall be construed to mean and include any number of parishes united under the Poor Law Amendment Act, 1834, or under any local Act; and the word "guardians" shall mean and include any board of guardians acting under the provisions of the Poor Law Amendment Act, 1834, and empowered to relieve the poor of any parish or union, and the visitors, guardians, directors, managers, acting guardians, vestrymen, or other officers in a union appointed to act in the ordering of relief of the poor from the poor rate under any general or local Act of Parliament; and the word "hundred" shall mean and include any hundred, wapentake, ward, or other district in the nature of a hundred by whatever name denominated.

"Parish";

"union";

5 & 6 Will. 4, c. 76;

"guardians";

"hundred."

SCHEDULE TO WHICH THIS ACT REFERS.

Form of Precept.

County of
to wit. } To the Guardians of the Union.

These are to require you the guardians of the union, from and out of the monies paid into the hands of the treasurer of your union for the uses and purposes of the said union, to pay or cause to be paid, on or before the day of

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Note.

section as being a "liberty," and the justices of the county were held to have no jurisdiction under this Act to include the borough in the basis for the county rate (*Reg.* v. *East Looe*, 3 B. & S. 20; 31 L. J. M. C. 245; 8 Jur. (N. S.) 1128).

But a quarter sessions borough in the charter incorporating which there was no non-intromittant clause was held to be liable to be assessed to the general county rate (*Were* v. *Devon, Clerk of the Peace*, 6 B. & S. 7; 34 L. J. M. C. 47; 11 Jur. (N. S.) 322; 11 L. T. (N. S.) 626; 13 W. R. 313).

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into the hands of A. B., treasurer, of the said county, appointed to receive the same, the sum of being the amount of the several and respective sums of money hereunder set down and expressed opposite to and against the names of the several parishes, townships, or places comprised within your said union, the said several sums being respectively charged and assessed thereon as the proportion of the several parishes, townships, or places towards the general county rate, at in the pound, made at the last quarter sessions [*or* general sessions] of the peace held at in and for the said county.

[*Signature of the Clerk of the Peace.*]

Names of Parishes.	County Rate, at in the Pound.
	£ s. d.

BURIAL ACT, 1852.

15 & 16 VICT. CHAP. 85.

An Act to amend the Laws concerning the Burial of the Dead in the Metropolis. [1st July, 1852.]

[This Act provides for the closing of burial grounds in the metropolis, the provision and maintenance of burial grounds, and the election and constitution of burial boards. Sects. 10—42, 44, 50—52 are extended to places outside the metropolis by 16 & 17 Vict. c. 134, s. 7, and are of general application. The relation of the Act to the poor law lies chiefly in the fact that the expenses of burial boards are payable out of the poor rates. Only so much of the Act is annotated here as appears to bear in some manner upon poor or parochial law.]

[*Preamble.*]

[Sect. 1. Repealed by the S. L. R. Act, 1875.]

II. In case it appear to Her Majesty in Council, upon the representation of one of Her Majesty's principal Secretaries of State, that for the protection of the public health burials in any part or parts of the metropolis, or in any burial grounds or places of burial in the metropolis, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for Her Majesty, by and with the advice of

Orders in Council for discontinuance of burials in metropolis.

Sect. 2. Note.

The powers and duties of the Secretary of State under this section are transferred to the Local Government Board by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 4.

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her Privy Council, to order that after a time mentioned in the order burials in such part or parts of the metropolis or in such burial grounds or places of burial shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require; provided that notice of such representation, and of the time when it shall please Her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the *London Gazette*, and shall be affixed on the doors of the churches or chapels of the parishes in which any burial grounds or places of burial affected by such representation shall be situate, or on some other conspicuous places within the part or parts of the metropolis affected by such representation, one calendar month . . . at the least before such representation is so considered: Provided always, that no such representation shall be made in relation to the burial ground of any parish until ten days previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk of such parish.

Order not to extend to burial grounds of Quakers or Jews, unless expressly included.

III. No such order in council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such order; and nothing in this Act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively; and no such order in council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such order.

Burial not to take place after order in council for discontinuance.

IV. It shall not be lawful, after the time mentioned in any such order in council for the discontinuance of burials, to bury the dead in any church, chapel, churchyard, or burial place or elsewhere, within the part or parts of the metropolis or in the burial grounds or places of burial (as the case may be) in which burials have by any such order been ordered to be discontinued, except as in this Act or in such order excepted; and every person who shall after such time as aforesaid, bury any body, or in anywise act or assist in the burial of any body, contrary to this enactment, shall be guilty of a misdemeanour.

Restrictions as to burial in the metropolis of inhabitants of parishes the burial grounds whereof are closed.

V. After the time from which burials in any place of burial of any parish are required under this Act to be discontinued, the body of any parishioner or inhabitant of such parish shall not be buried in any burial ground within the metropolis belonging to any other parish within the metropolis, save where the body of any of the family or relatives of such parishioner or inhabitant has been interred in such burial ground, and the relatives or other persons having the care and direction of the funeral signify a desire that on that account the body of such parishioner

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or inhabitant should be there interred (such burial ground not being a burial ground in which burials have been ordered to be discontinued under this Act), and save as herein otherwise provided; and every person having the care or control of any burial ground, who knowingly authorizes or permits any burial therein contrary to this enactment, shall be guilty of a misdemeanour.

Saving of certain rights to bury in vaults, &c.

VI. Provided always, that notwithstanding any such order in council, where by virtue of any faculty legally granted, or by usage or otherwise, there is at the time of the passing of this Act any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial ground affected by such order, and where any exclusive right of interment in any such burial ground has been purchased or acquired before the passing of this Act, it shall be lawful for one of Her Majesty's principal Secretaries of State from time to time, on application being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as such Secretary of State may think fit; but such licence shall not prejudice or in anywise affect the authority of the ordinary, or of any other person who, if this Act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had, if this Act had not been passed.

Saving as to cemeteries in schedule (B.) and new burial grounds.

VII. The provisions of this Act shall not extend to authorize the discontinuance of burials, or to prevent the burial of the body of any person in any of the cemeteries mentioned in the schedule (B.) to this Act, or in any burial ground or cemetery to be hereafter provided with the approval of one of Her Majesty's principal Secretaries of State, as herein mentioned.

Saving as to St. Paul's Cathedral and Westminster Abbey.

VIII. Nothing in this Act contained shall extend to prevent the interment in the cathedral church of Saint Paul's, London, or in the collegiate church of Saint Peter's, Westminster, of the body of any person, where Her Majesty, by any writing under her Royal Sign Manual, shall signify her pleasure that the body be so interred.

New burial grounds to be approved by Secretary of State.

IX. No new burial ground or cemetery (parochial or non-parochial) shall be provided and used in the metropolis, or within two miles of any part thereof, without the previous approval of one of Her Majesty's principal Secretaries of State.

Sects. 6, 7, 9.

Note.

The powers and duties of the Secretary of State under these sections are transferred to the Local Government Board by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 4.

Sect. 10.

Provision of new burial ground by vestry.

X. Upon the requisition in writing of ten or more ratepayers of any parish . . . in which the place or places of burial shall appear to such ratepayers insufficient or dangerous to health (and whether any order in council in relation to any burial ground in such parish has or has not been made), the churchwardens or other persons to whom it belongs to convene meetings of the vestry of such parish shall convene a meeting of the vestry, for the special purpose of determining whether a burial ground shall be provided under this Act for the parish; and public notice of such vestry meeting, and the place and hour of holding the same, and the special purpose thereof, shall be given in the usual manner in which notices of the meetings of the vestry are given, at least seven days before holding such vestry meeting; and if it be resolved by the vestry that a burial ground shall be provided under this Act for the parish, a copy of such resolution, extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of Her Majesty's principal Secretaries of State.

In case vestry resolve to provide a burial ground, a burial board shall be appointed.

XI. In case of such resolution as aforesaid the vestry shall appoint not less than three nor more than nine persons, being ratepayers of the parish, to be the burial board of such parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves), shall go out of office yearly, at such time as shall be from time to time fixed by the vestry, but shall be eligible for immediate re-appointment: Provided always, that the incumbent of the parish shall be eligible to be appointed and re-appointed from time to time as one of the members of the said board, although not a ratepayer of the parish; provided also, that any member of the board may at any time resign his office, on giving notice in writing to the churchwardens or persons to whom it belongs to convene meetings of the vestry.

Resignation of members.

Sect. 10.

Note.

The provision requiring the requisition of ten or more ratepayers is dispensed with by the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 3, which enables the churchwardens of a parish, in which no burial board has been appointed, at any time, at their discretion, to convene a meeting of the vestry for the purpose of determining whether a burial ground shall be provided for the parish; and makes it incumbent on them to call such meeting, if notice has been given of the intention of the Secretary of State to make a representation to Her Majesty in Council that burials be discontinued in a burial ground of the parish.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 7 (1) (8), in rural parishes the Burial Acts may be adopted by a resolution of the parish meeting to provide a burial ground.

For "one of Her Majesty's principal Secretaries of State" in this section, now read, "Local Government Board": Burial Act, 1900 (63 & 64 Vict. c. 15), s. 4.

Sect. 11.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 7 (7), in rural parishes, if the Burial Acts are adopted, the parish council is constituted the authority for their execution. By sect. 62 (1) of that Act a burial board cannot be appointed for any part of an urban district without the approval of the council of that district.

[Sect. 12. Repealed by the S. L. R. Act, 1875.] Sect. 12.

Meetings of the board.

XIII. The board shall meet . . . at their office, or some other convenient place previously publicly notified; and the said board may meet at such . . . time as at any previous meeting shall be determined upon; and it shall be at all times competent for any two members of the board, by writing under their hands, to summon, with at least forty-eight hours' notice, the board for any special purpose mentioned in such writing, and to meet at such time as shall be appointed therein.

Quorum.

XIV. At all meetings of the board any number not less than three members of such board shall be a sufficient number for transacting business, and for exercising all the powers of the board.

Board may appoint and remove officers, &c.

XV. The board shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for the business of the board and for the purposes of their burial ground, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business.

Minutes of proceedings of board, and accounts.

XVI. Entries of all proceedings of the board, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the board, and shall be signed by the members present or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the board having been duly convened or held, or of the presence at any such meeting of the persons named in any such entry as being present thereat, or of such persons being members of the board, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved; and the board shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this Act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money are paid and such liabilities incurred.

Penalty for refusing to allow inspection of books, &c.

XVII. All such books shall at all reasonable times be open to the examination of every member of such board, churchwarden, overseer, and ratepayer, without fee or reward; and

Words in this section regulating the frequency of meetings are repealed by the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 5. Sect. 13. Note

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they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the members of such board, or any of them, or any of the officers or servants of such board having the custody of the said books, being thereunto reasonably requested, refuse to permit or do not permit any churchwarden, overseer, or rate-payer to examine the same, or take any such copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before any justice of the peace, forfeit any sum not exceeding five pounds.

Audit of accounts.

XVIII. The vestry shall yearly appoint two persons, not being members of the board, to be auditors of the accounts of the board: and at such time in the month of March in every year as the vestry shall appoint the board shall produce to the auditors their accounts, with sufficient vouchers for all monies received and paid; and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.

Expenses to be paid out of the poor's rates.

XIX. The expenses incurred or to be incurred by the burial board of any parish in carrying this Act into execution shall

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Sect. 18.

Note.

In rural parishes the accounts of the parish council acting as the authority in the execution of the Burial Acts are audited by the district auditor, as provided by sect. 58 of the Local Government Act, 1894.

Sect. 19.

Note.

In boroughs where the town council is the burial board the expenses of carrying the Burial Acts into execution are payable out of the borough fund and borough rates (Burial Act, 1854 (17 & 18 Vict. c. 87), s. 3); power also being given to the council to levy a special burial rate for the purpose (Burial Act, 1857 (20 & 21 Vict. c. 81), s. 22).

For provisions as to payment of expenses of burial boards provided for united parishes, see Burial Act, 1855 (18 & 19 Vict. c. 128), s. 11; and of burial boards for places not separately maintaining their own poor, *Id.*, s. 13.

By the Burial Boards (Contested Elections) Act, 1885 (48 & 49 Vict. c. 21), all reasonable expenses of taking a poll of ratepayers in the case of a contested election of a burial board shall be considered as expenses incurred in carrying this Act into execution, and may be included in the certificate to the overseers.

Rural parishes.

Where the parish council is the authority for the execution of the Burial Acts in a rural parish, the authorization of the parish meeting is substituted for the authorization of the vestry mentioned in this section (Local Government Act, 1894, s. 7, sub-s. (3)). The expenses of the execution of the Burial Acts are not included in the general expenses of the parish council, which must not exceed a sum equal to a sixpenny rate (*Ib.*, s. 11 (3).) Any charge, whether of principal or interest, in respect of any loan made by a parish council for the purposes of the Burial Acts, will fall upon the poor

be chargeable upon and paid out of the rates for the relief of the poor of such parish; the expenses to be so incurred for or on account of any parish in providing and laying out a burial ground under this Act and building the necessary chapel or chapels thereon not to exceed such sum as the vestry shall authorize to be expended for such purpose; and the overseers or other officers authorized to make and levy rates for the relief of the poor in any parish shall, upon receipt of a certificate under the hands of such number of members of the burial board as are authorized to exercise the powers of the board of the sums required from time to time for defraying any such expenses as aforesaid, pay such sums out of the rates for the relief of the poor as the board shall direct.

Sect. 19.

Borrowing powers of board.

XX. Provided always, that it shall be lawful for the board, with the sanction of the vestry and the approval of the Treasury, to borrow any money required for providing and laying out any burial ground under this Act, and building a chapel or chapels thereon, or any of such purposes, and to charge the future poor rates of the parish with the payment of such money and interest thereon; . . .

Advances by Public Works

XXI. The commissioners for carrying into execution an Act of the session holden in the fourteenth and fifteenth years of

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Sect. 19.

Note.

rate (*Ib.*, s. 12 (1) (3)). The demand note for any rate levied for defraying the expenses of a parish meeting must state (*inter alia*) the proportion (if any) of the rate levied for the purposes of the Burial Acts (*Ib.*, s. 11 (4)).

The expenses of providing a burial ground, of paying mortgage monies, and the ordinary expenses of maintaining the burial ground, are properly defrayed by one rate (*Reg.* v. *Coleshill*, 2 B. & S. 825; 9 Jur. (N. S.) 226; 31 L. J. Q. B. 219; 7 L. T. (N. S.) 244; affirmed, 34 L. J. Q. B. 96).

Sect. 20.

Note.

The latter part of this section is repealed by the Burial Act, 1857 (20 & 21 Vict. c. 81), s. 18.

Where money is borrowed by a joint committee exercising the powers of a burial board the provisions of this section are superseded by those of the Local Government (Joint Committee) Act, 1897 (60 & 61 Vict. c. 40).

This section is not applicable to borrowing by a parish council for the purposes of the Burial Acts, the powers and duties of a parish council in that respect being governed by sect. 12 of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

If the proceedings of the vestry connected with the sanctioning of the loan are not strictly regular, the board may be deemed to be without authority to borrow the amount required (*Elt* v. *St. Mary's, Islington, Burial Board*, 1 Kay, 449).

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Note.

The Act 14 & 15 Vict. c. 23, is repealed by the Public Works Loans Act, 1875 (38 & 39 Vict. c. 87), which by sects. 10, 11, provides that the interest on any loan shall not be less than five per

Sect. 21.

Loan Commissioners.

14 & 15 Vict. c. 23.

Her Majesty, chapter twenty-three, "to authorize for a further period the advance of Money out of the Consolidated Fund to a limited amount for carrying on Public Works and Fisheries and Employment of the Poor," and any Act or Acts amending or continuing the same, may from time to time make to the burial board of any parish for the purposes of this Act any loan under the provisions of the recited Act, or the several Acts therein recited or referred to, upon security of the rates for the relief of the poor of the parish.

Application of borrowed monies.

XXII. The money raised for defraying such expenses, and the income arising from the burial ground provided for the parish, except fees payable to the incumbent, clerk, and sexton of the parish, and the other fees herein directed to be otherwise paid, shall be applied by the board in or towards defraying the expenses of such board under this Act; and whenever, after repayment of all monies borrowed for the purposes of this Act in or for any parish and the interest thereof, and after satisfying all the liabilities of the board with reference to the execution of this Act in or for the parish, and providing such a balance as shall be deemed by the board sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the board, they shall pay the same to the overseers, in aid of the rate for the relief of the poor of the parish.

Vestries of parishes may concur in providing a burial ground for the common use of such parishes, &c.

XXIII. The vestries of any parishes which shall have respectively resolved to provide burial grounds under this Act may concur in providing one burial ground for the common use of such parishes, in such manner, not inconsistent with the provisions of this Act, as they shall mutually agree, and may

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Sect. 21. Note.

cent. per annum, unless a lower rate is authorized by the special Act relating to such loan; and that if no period within which a loan shall be repayable is mentioned in the special Act, it shall be repayable by instalments within twenty years.

Sect. 22. Note.

By the Burial Act, 1860 (23 & 24 Vict. c. 64), s. 3, any surplus income, in cases of local boards of health or improvement commissioners constituted burial boards, is to be applied in aid of the general district or improvement rate.

Under the provisions of the Burial Acts, a burial board practically carries on the business of burying the dead for the benefit of the parish; and any surplus remaining in its hands after paying expenses is, notwithstanding the provision in this section that it shall be paid to the overseers in aid of the poor rate, a "profit" within the meaning of 5 & 6 Vict. c. 35, s. 60. The burial board is consequently liable to be assessed to the income tax in respect of such surplus (*Paddington Burial Board* v. *Commissioners of Inland Revenue*, 13 Q. B. D. 9; 53 L. J. Q. B. 224; 50 L. T. 211; 32 W. R. 551; 48 J. P. 311).

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agree as to the proportions in which the expenses of such burial ground shall be borne by such parishes; and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed upon, the burial boards appointed for such parishes respectively shall, for the purpose of providing and managing such one burial ground, and taking and holding land for the same, act as one joint burial board for all such parishes, and may have a joint office, clerk, and officers; and all the provisions of this Act shall apply to such joint burial board accordingly; and the accounts and vouchers of such board shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such board shall be paid to the overseers of such parishes respectively in the same proportions as those in which such parishes shall be liable to such expenses.

Incorporation, &c. of burial boards.

XXIV. For the more easy execution of the purposes of this Act the burial board of every parish appointed under this Act shall be a body corporate, by the name of "The Burial Board for the Parish of in the County of ," and by that name shall have perpetual succession and a common seal, and shall sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of this Act; and where the burial boards of two or more parishes act as and form one joint burial board for all such parishes for the purposes aforesaid, such joint board shall for such purposes only be a body corporate by the name of "The Burial Board for the Parishes of and in the County of " and by that name shall have perpetual succession and a common seal, and shall sue and be sued and have power and authority as aforesaid to take, purchase, and hold land for the purposes of this Act.

Board to provide a burial ground, which

XXV. Every burial board shall, with all convenient speed, proceed to provide a burial ground for the parish or parishes

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Sect. 25.

Note.

The latter part of this section is repealed by the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 9.

A burial board cannot enforce the levy of a rate to pay expenses connected with the acquisition of a burial ground for which they had no authority from the vestry, and in respect of which no warrant dispensing with such authority had been obtained from the Home Secretary under the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 6 (*Reg.* v. *Kilham Burial Board*, 1 T. L. R. 577, 678).

A burial board becomes owner of the burial ground provided, and is liable in respect of it as any other owner of land. Thus where a burial board planted yew trees in the burial ground, and allowed

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may be within or without the parish.

for which they are appointed to act, and to make arrangements for facilitating interments therein; and in providing such burial ground the board shall have reference to the convenience of access thereto from the parish or parishes for which the same is provided; and any such burial ground may be provided either within or without the limits of the parish, or all or any of the parishes, for which the same is provided; . . .

Board may, with approval of vestry, purchase land for forming a burial ground, or purchase an existing cemetery or contract for interments in a cemetery.

XXVI. For the providing such burial ground it shall be lawful for the burial board, with the approval of the vestry or vestries of the parish or respective parishes, to contract for and purchase any lands for the purpose of forming a burial ground, or for making additions to any burial ground to be formed or purchased under this Act, as such board may think fit, or to purchase from any company or persons entitled thereto any cemetery or cemeteries, or part or parts thereof, subject to the rights in vaults and graves, and other subsisting rights, which may have been previously granted therein: Provided always, that it shall be lawful for such board, in lieu of providing any such burial ground, to contract with any such company or persons entitled as aforesaid for the interment in such cemetery or cemeteries, and either in any allotted part of such cemetery or cemeteries or otherwise, and upon such terms as the burial board may think fit, of the bodies of persons who would have had rights of interment in the burial grounds of such parish or respective parishes.

Certain provisions of 8 & 9 Vict. c. 18. incorporated with this Act.

XXVII. The Lands Clauses Consolidation Act, 1845, except the provisions of that Act "with respect to the purchase and taking of lands otherwise than by agreement," "with respect to the recovery of forfeitures, penalties, and costs," "with respect to lands acquired by the promoters of the undertaking under the provisions of the Lands Clauses Consolidation Act, 1845, or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof," and "with respect to the provision to be made for affording access to the special Act by all parties interested," shall be incorporated with this Act; and for the purposes of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean any such burial board.

Sect. 25. Note.

the branches to project into and over an adjoining meadow, and the plaintiff's horse, pasturing in this meadow, ate a quantity of the projecting leaves and branches and was poisoned, it was held that the burial board was liable for the damage (*Crowhurst* v. *Amersham Burial Board*, 4 Ex. D. 5; 39 L. T. (N. S.) 355).

Sect. 27. Note.

Where a parish council is the authority for the execution of the Burial Acts, it is empowered by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 9, subject to certain conditions, to resort to the compulsory sections of the Lands Clauses Acts for acquiring land for the purposes of the Burial Acts, which a burial board cannot do.

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Power to sell lands not wanted.

XXVIII. It shall be lawful for any such board, with the approval of the vestry, to sell and dispose of any lands purchased by them under this Act, or any part thereof, in which no interment shall have taken place, and which it may appear to the board may be properly sold or disposed of; and for completing and carrying any such sale into effect such board may make and execute a conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct; and such conveyance shall be under the hands of at least two of the members of the board, and under the seal of the board; and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, 1845, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the hands of two of the members of the board shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received; and the money to arise from such sale shall be applied to such of the purposes of this Act as the board shall think fit.

8 & 9 Vict. c. 18.

Board may, with approval of vestry, &c.

XXIX. Provided always, that any burial board under this Act, with the approval of the vestry and of the guardians of

Sect. 28.

Note.

By the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 17, a burial board may, with the sanction of a Secretary of State, let superfluous land which has not been consecrated, and in which no interment has taken place; and by the Burial Act, 1857 (20 & 21 Vict. c. 81), s. 24, trustees of unconsecrated land or buildings vested in them for the purposes of a cemetery or building ground, and closed by Order in Council, may, with the sanction of a Secretary of State, sell or let any part or parts thereof in which no interments shall have taken place. By the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 6, unconsecrated ground maintained by a burial authority and set apart for the purposes of burial may not be applied to any other purpose except by leave of the Local Government Board.

If the part sold is part of a burial ground closed by Order in Council, no building can be erected thereon except for the purpose of enlarging a place of worship (Disused Burial Grounds Act, 1884 (47 & 48 Vict. c. 72), s. 3).

Under the provisions of a local Act, part of a consecrated cemetery, which it was supposed had not been used for interments, was sold for building purposes. It was afterwards found that it had been at one time used for burials, and on the representation that the number of bodies buried therein did not exceed twenty, a faculty was obtained for the removal of the bodies and the decent interment of them elsewhere. Subsequently 400 or 500 more coffins were found and removed from the spot. *Held* that the powers conferred by the faculty had been exceeded; that the faculty must be withdrawn, and the bodies decently re-interred in the places from which they had been taken (*St. Pancras* v. *St. Martin-in-the-Fields*, 6 Jur. (N. S.) 540).

Sect. 29.

Note.

For "Poor Law Board" in this section now read "Local Government Board" (34 & 35 Vict. c. 70).

The sanction of the Local Government Board is not required if

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appropriate land belonging to parish.

the poor of the parish (if any), and of the Poor Law Board, may from time to time appropriate for the purposes of a burial ground for such parish, either alone or jointly with any other parish or parishes, any land vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish, or for any specific charity: Provided always, that where any land so taken and appropriated shall be subject to any charitable use, such lands shall be taken on such conditions only as the Court of Chancery in the exercise of its jurisdiction over charitable trusts shall appoint and direct.

Part of ground may be consecrated and part unconsecrated.

XXX. It shall be lawful for any burial board to lay out and embellish any burial ground provided by such board in such manner as may be fitting and proper, *and to build on any land to be purchased or appropriated for a burial ground under this Act, and according to a plan to be approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the United Church of England and Ireland; and such burial ground may be consecrated by the bishop of the diocese, when the same shall appear to him to be in a fit and proper condition, for the purposes of interment according to the rites of the United Church: Provided always, that in providing any burial ground such board shall set apart a portion thereof which shall not be so consecrated as aforesaid, and may build thereon a suitable chapel or chapels for the performance of funeral service.*

Sect. 29. Note.

the burial board is a town council, and the land appropriated belongs to the borough or to trustees of a charity (Burial Act, 1854 (17 & 18 Vict. c. 87), s. 11).

The legal interest in parish property in rural parishes other than property connected with the church or ecclesiastical charities is now vested in the parish council (Local Government Act, 1894, s. 5 (2) (*c*)); or in the chairman of the parish meeting and overseers of the parish, if there is no parish council (*Id.*, s. 19 (7)).

The Chancery Division of the High Court will not entertain any application under this section in respect of lands subject to a charitable use unless the Charity Commissioners have previously given their sanction to the application being made, although it is not necessary that they should approve of the application being granted (*Ex parte The Watford Burial Board*, 2 Jur. (N. S.) 1045). Nor will the court make any order where it appears that the approval of the vestry had been obtained under a mistake as to the facts (*In re Egham Burial Board*, 3 Jur. (N. S.) 956).

Sect. 30. Note.

The part of this section printed in italics is repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12, and its provisions replaced by sect. 2 of that Act.

Sect. 31.

Board may contract for works to be done.

XXXI. Any burial board may from time to time enter into any contract with any persons or companies for building any chapel or chapels *as aforesaid*, and inclosing, laying out, and embellishing any burial ground, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act; which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by such burial board, for the purposes of this Act, unless previous to the making thereof fourteen days' notice shall be given in one or more of the public newspapers published in the county or counties in which the parish or respective parishes shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the burial board at a certain time and place in such notice to be mentioned; but it shall not be incumbent on the burial board to contract with the person offering the lowest price.

Burial ground to be the burial ground of the parish or parishes for which it is provided.

XXXII. [*From and after the consecration as aforesaid of*] any burial ground provided under this Act [(*except any portion thereof intended not to be so consecrated*), *or where all or any part of such burial ground, by reason of the same having been already consecrated, shall not require to be consecrated, then from and after such time as the bishop of the diocese shall appoint, such burial ground*] shall be deemed the burial ground of the parish for which the same is provided, and where the same is provided for two or more parishes such burial ground shall be in law as if such parishes were one parish, and as if such burial

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Sect. 31. Note.

The words of this section printed in italics are repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12.

Sect. 32. Note.

The words of this section printed in italics are repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12, and replaced by other provisions of that Act.

The incumbent is not entitled to fees for burying non-parishioners in a burial ground provided under the Burial Acts (*Wood* v. *Headingley-cum-Burley Burial Board*, [1892] 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390).

As to rights of parish clerks and sextons, see *St. Margaret's, Rochester, Burial Board* v. *Thompson*, L. R. 6 C. P. 445; 40 L. J. C. P. 213; 24 L. T. 673; 19 W. R. 892; *Gell* v. *Birmingham*, 10 L. T. (N. S.) 497; *Ormerod* v. *Blackburn*, 28 L. T. (N. S.) 438; 21 W. R. 539.

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Duties, rights and fees of incumbent and clerk and sexton therein.

ground were the burial ground of such one parish; and every incumbent or minister of the parish or of each of the parishes (as the case may be) for which such burial ground is provided shall, by himself and his curate, or such duly qualified persons as such incumbent or minister may authorize, perform the duties and have the same rights and authorities for the performance of religious service in the burial in such burial ground, or in the consecrated portion thereof, of the remains of parishioners or inhabitants of the parish of which he is such incumbent or minister [*and shall be entitled to receive the same fees in respect of such burials which he has previously enjoyed and received*]; and the clerk and sexton of such parish or of each of such parishes shall (when necessary) perform and exercise the same duties and functions in respect of the burial of the remains of parishioners or inhabitants of the parish of which he is clerk or sexton in such burial ground or the consecrated portion thereof [*and shall be entitled to receive the same fees on such burials*], as he has previously performed and exercised [*and received*], as if such burial ground were the burial ground of the respective parish of such incumbent or minister, clerk and sexton respectively; and the parishioners and inhabitants of such parish or of each of such parishes shall have the same rights of sepulture in such burial ground as they respectively would have had in the burial ground or burial grounds in and for their respective parish, subject nevertheless to the provisions herein contained.

Board may sell exclusive rights of

XXXIII. Any burial board, under such restrictions and conditions as they think proper, may sell the exclusive right of

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Sect. 33.

Note.

The part of this section printed in italics is repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12.

Under this section a burial board may grant a grave space to the grantee and his heirs, and the title to the burial rights under such grant will descend to the heirs of the grantee, and will not be vested in all members of the family of the grantee (*Matthews* v. *Jeffrey*, 6 Q. B. D. 290; 50 L. J. Q. B. 164; 29 W. R. 282; 43 L. T. 796; 45 J. P. 361). But the grant may be made to the grantee and his "family," as in the case of a faculty for a vault (*Magnay* v. *Rector of St. Michael*, 1 Hagg. Eccl. Cas. 48).

In cemeteries provided by local authorities under the Public Health (Interments) Act, 1879 (42 & 43 Vict. c. 31), and in other cemeteries to which the Cemeteries Clauses Act, 1847 (10 & 11 Vict. c. 65), applies, it is provided by sect. 44 of the last-mentioned Act, that the exclusive right of burial in such cemetery, whether in perpetuity or for a limited time, shall be considered as the personal estate of the grantee, and may be assigned in his lifetime, or bequeathed by his will.

An exclusive right of burial is an easement, arising out of land, and the grant of such a right must be by deed (*Byran* v. *Whistler*, 8 B. & C. 288; 2 M. & R. 318).

An absolute grant under this section of an exclusive right of

burial, either in perpetuity or for a limited period, in any part of any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet or monumental inscription in such burial ground: *but there shall be payable to the incumbent or minister of the parish out of the fees or payments to be paid in respect of any rights acquired under this enactment in the consecrated part of such burial ground (in lieu of the fees or sums which he would have been entitled to on the grant of the like rights in the burial ground of his parish) such fees or sums as shall be settled and fixed by the vestry with the approval of the bishop of the diocese, or, if no such fees or sums shall have been so settled, then such fees as he would by law or custom have been entitled to on the grant of the like rights in the burial ground of his parish.*

Sect. 33. burial, and right to construct vaults and erect monuments.

XXXIV. Every burial board under this Act shall and may (*without prejudice to the fees and payments herein specially provided for*) fix and settle and receive such fees and payments in respect of interments in any burial ground provided by such board as they shall think fit, and also the sums to be paid for the exclusive right of burial, either in perpetuity or for a limited period, in any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet or monumental inscription in such burial ground; and every burial board, with the consent of the vestry, may from time to time revise and alter such fees, payments, and sums as aforesaid; and a table showing such fees, payments, and sums, and all other fees and payments in respect of interments in such ground, shall be printed and published, and shall be affixed and at all times continued on some conspicuous part of such burial ground.

Board to fix payments for interments in burial ground and for vaults and monuments.

Sect. 33. Note.

burial in part of a burial ground conveys also the right to plant flowers on the grave, and to keep the head and curb stones in decorative repair; any subsequent bye-laws made by the burial board under the general powers of management conferred upon it by sect. 38 of this Act limiting or interfering with such right are *ultra vires* (*Ashby* v. *Harris*, L. R. 3 C. P. 523; 37 L. J. M. C. 164; 18 L. T. (N. S.) 719; 16 W. R. 869; but see on this subject *McGough* v. *Lancaster Burial Board*, 21 Q. B. D. 323).

Sect. 34. Note.

The words of this section printed in italics are repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12.

The settlement of all fees which may be fixed, settled, or received by a burial board under this section is subject to the approval of a Secretary of State (Burial Act, 1855 (18 & 19 Vict. c. 128), s. 7).

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Division of fees between incumbents of parishes and ecclesiastical districts.

XXXV. Where at the time of the discontinuance of interment in any burial ground the fees in respect of burials therein are divided between the incumbent of the parish and the incumbent of any district parish or other ecclesiastical district, each incumbent shall have the same proportion of the fees in the burial ground to be provided under this Act as he was entitled to in respect of interments in the old burial ground.

[Repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12.]

Fees payable to churchwardens and others for parochial purposes.

XXXVI. Where fees or any portion of fees payable on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any parish for which a burial ground is provided alone or jointly with any other parish or parishes under this Act, are by law or custom payable to the churchwardens of any parish, or to trustees or other persons, for or towards the payment of any annuity or stipend to the incumbent or minister, or any other parochial purpose, or the discharge of any debt or liability, such fees or portion of fees shall be payable in the burial ground to be provided as aforesaid for such parish under this Act, and shall be received by the burial board and paid to the parties entitled to receive the same; and where fees or payments have been received on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any such parish by any such churchwardens, or by trustees or other persons, for the purpose of discharging any periodical payment or other liability, it shall be lawful for the burial board, upon the request of such churchwardens, trustees, or persons, to pay from time to time, out of the fees and monies received by them on account of such parish, such amount as may be necessary for discharging such periodical payment or liability.

[Repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12.]

Power to vestry, with consent of bishop, to revise the fees to incumbent, &c., or to substitute a fixed payment.

XXXVII. It shall be lawful for the vestry of any parish from time to time, if they think fit, with the consent of the bishop of the diocese, to revise and vary the fees payable to the incumbent, clerk, and sexton, and other persons and bodies respectively, under the provisions of this Act, or, with such consent as aforesaid, to substitute for the fees payable to such incumbent, clerk, and sexton, and other persons and bodies respectively, a fixed annual sum of such amount as to such vestry may seem just, to be payable by such periodical payments as such vestry may appoint; and in such last-mentioned case the fees which would otherwise be payable under this Act to the incumbent, clerk, and sexton, and such other persons and bodies respectively, shall be paid to the burial board, and such fixed payments as aforesaid shall be paid by such board.

[Repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12.]

Management of burial

XXXVIII. The general management, regulation, and control of the burial grounds provided under this Act shall, subject to

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ground to be vested in board.

the provisions of this Act and the regulations to be made thereunder, be vested in and exercised by the respective burial boards providing the same; provided that any question which shall arise touching the fitness of any monumental inscription placed in any part of the consecrated portions of such grounds shall be determined by the bishop of the diocese.

Arrangements between incumbents where burial ground is provided for the common use of two or more parishes.

XXXIX. Where a burial ground is provided under this Act for the common use of two or more parishes, in case any question arise among the incumbents of such parishes as to the performance of the burial service by a chaplain to be paid by means of contributions from such incumbents, or deductions from fees or sums payable to them, or otherwise touching the performance of service in the consecrated part of such ground, the bishop of the diocese shall from time to time confirm any arrangement which a majority, or, in case of equal numbers, one-half of the incumbents shall approve; and such arrangement so confirmed shall be binding upon all the parties concerned.

Provisions of 10 & 11 Vict. c. 65, incorporated.

XL. The provision of the Cemeteries Clauses Act, 1847, with respect to the protection of the cemetery, shall be incorporated with this Act, and be applicable to any burial ground provided under this Act.

Conveyance of bodies to burial grounds.

XLI. Any burial board may make such arrangements as they may from time to time think fit for facilitating the conveyance of the bodies of the dead from the parish or the place of death to the burial ground which shall be provided under this Act, or to any other place of burial, subject to the provisions of this Act and the regulations to be made thereunder; and it shall be lawful for any of the aforesaid cemetery companies to undertake any such arrangement, and to carry the same into effect, subject to the provisions and regulations as aforesaid.

Places for reception of bodies until interment.

XLII. It shall be lawful for any burial board, with the approval of the vestry, and subject to the provisions of this

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Note.

The Act in force enabling "overseers and churchwardens" to provide a workhouse for a parish not having a workhouse is the Poor Relief Act, 1601 (43 Eliz. c. 2, s. 4). The following statutes, however, regulate the powers of overseers and guardians for the same object: The Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 21, 23, 24; the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69); the Union and Parish Property Act, 1837 (7 Will. 4 & 1 Vict. c. 50); the Workhouse Sites Act, 1857 (20 & 21 Vict. c. 13); the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 17; the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 14.

All the sections of 59 Geo. 3, c. 12, which relate to the providing of workhouses by overseers, *i.e.*, sects. 8 to 10, and 14 to 16, are repealed by the S. L. R. Act, 1873.

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Act and the regulations to be made thereunder, and for the churchwardens and overseers of the poor of any parish . . . for which a burial board shall not have been appointed under this Act, by the direction of the vestry, and subject as aforesaid, to hire, take on lease, or otherwise to provide fit and proper places in which bodies may be received and taken care of previously to interment, and to make arrangements for the reception and care of the bodies to be deposited therein; and for providing such places such burial boards may exercise the powers vested in them under this Act for providing burial grounds; and churchwardens and overseers may exercise all such powers as, under the Poor Relief Act, 1819, or otherwise, the churchwardens and overseers of any parish not having a workhouse might exercise for providing a workhouse for such parish.

53 Geo. 3, c. 12.

The Commissioners of Sewers to be burial board for the parishes in the city.

XLIII. The provisions herein-before contained for the appointment of burial boards shall not apply to any parish within the limits of the city of London and the liberties thereof; but it shall be lawful for the mayor, aldermen, and commons of the said city, in common council assembled, if and when they see fit so to do, to authorize and direct the Commissioners of Sewers of the City of London to exercise for the said city and liberties all the powers and authorities vested in burial boards under this Act; and thereupon such commissioners shall have and exercise for and on behalf of the said city and liberties all such powers and authorities as are hereby vested in the burial board for any parish, or which might be exercised by such board with the approval of the vestry; but the expenses to be incurred by such commissioners in providing and laying out any burial ground or burial grounds under this Act, and building the necessary chapel or chapels therein, shall not exceed such sum as the said mayor, aldermen, and commons in common council assembled shall authorize to be expended for this purpose; and the money required for defraying the expenses incurred under this Act by the said commissioners shall be charged upon and payable out of the consolidated rate authorized to be made by the City of London Sewers Act, 1848, or any monies applicable for defraying the expenses by the said Act charged upon or payable out of such rate; and the income of any burial ground provided under this Act by such commissioners, which, if such ground had been provided by a burial board for any parish, would be applicable in aid of the rate for the relief of the poor of such parish, shall be applicable in aid of the said consolidated rate; and the provisions contained in the City of London Sewers Act, 1848, for the purpose (as therein expressed) of enabling the

11 & 12 Vict. cap. clxiii.

Sect. 43.

Notes.

The Commissioners of Sewers having acquired a cemetery under this Act at Little Ilford, further provisions were made with regard to fees, vestries, chaplain, &c., by 20 & 21 Vict. c. 35.

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said commissioners to effect the purchases therein authorized shall be applicable for the purpose of enabling the said commissioners to purchase land for the purposes of this Act; and the powers for and auxiliary to the sale and disposal of land given or expressed to be given by the City of London Sewers Act, 1848, and the City of London Sewers Act, 1851, with respect to land purchased by the said commissioners for any of the purposes mentioned in such last-mentioned Act, and deemed by them unnecessary for such purposes, shall be applicable with respect to any land purchased by the said commissioners for the purposes of this Act which may not appear to them to be wanted for such purposes; and all the provisions of the said City of London Sewers Acts applicable to the exercise of the powers vested in the said commissioners shall be applicable to and for the purposes of this Act, as if the powers which under this Act may become vested in such commissioners had been powers vested in them under the said City of London Sewers Act, 1848; provided that it shall be lawful for the said mayor, aldermen, and commons to appoint any incumbent or incumbents of any parish or parishes within the said city or liberties to act with the said commissioners for the purposes of this Act.

11 & 12 Vict. cap. clxiii. 14 & 15 Vict. cap. xci.

Secretary of State may make regulations as to burial grounds, &c.

XLIV. It shall be lawful for one of Her Majesty's principal Secretaries of State from time to time to make such regulations in relation to the burial grounds and places for the reception of bodies previously to interment which may be provided under this Act, as to him may seem proper, for the protection of the public health and the maintenance of public decency; and the burial boards and all other persons having the care of such burial grounds and places for the reception of bodies shall conform to and obey such regulations.

[Sect. 45. Brompton Cemetery vested in Commissioners of Works.]

[Sects. 46, 47. Respectively repealed by the S. L. R. Acts, 1892 and 1875.]

[Sect. 48. Brompton Cemetery may be sold by direction of the Treasury.]

Fees in pauper burials in cemeteries

XLIX. Where any body is buried in any of the cemeteries mentioned in schedule (B.) to this Act, at the expense of any

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Note.

The powers and duties of the Secretary of State under this section are transferred to the Local Government Board by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 6.

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Note.

By the Burial Act, 1853 (16 & 17 Vict. c. 134), s. 7, the provisions of this section are extended to all cemeteries already established and hereafter to be established under the authority of Parliament in like manner as to those mentioned in schedule (B.) to this Act, and as respects the cemeteries to which this section is thereby

Sect. 49. mentioned in schedule (B.).

union or parish, the fee or sum to be paid or payable on the interment of such body, or otherwise in respect thereof, to the incumbent of the parish or ecclesiastical district from which such body is removed for interment, shall not exceed the sum of one shilling, or, where the incumbent now receives in respect of the like burial in the ground of his parish more than one shilling, shall not exceed the sum so now received, and in no case shall exceed two shillings and sixpence ; and no other fee or sum whatsoever shall be payable in respect of such interment, to or for the use of any person as an officer of such parish or district, or for or on behalf of such parish or district, anything in any Act mentioned in the said schedule (B.) or any other Act notwithstanding.

Incumbents' fees to be payable to churchwardens, &c. where the fees on burials are now paid to them, &c.

L. Where under any local Act fees on interments in any burial ground of any parish . . . are payable to the churchwardens of such parish, or to any trustees or other persons, for the purpose of enabling them to pay an annuity or stipend to the incumbent or minister, the fees which under this Act, or any Act relating to any cemetery company, would on the interment in the cemetery of any company of any body brought from such parish be payable to such incumbent or minister, shall be payable to the said churchwardens, trustees, or persons ; and any surplus of such fees which may remain in their hands after payment of such annuity or stipend shall be paid to such incumbent or minister.

Where closed burial ground is situate in a different parish from that to which it belongs, the chapel attached thereto may be conveyed for the use of such parish.

LI. Where any burial ground in which interment is discontinued under this Act belongs to any parish other than the parish within which the same is locally situate, it shall be lawful for the incumbent and churchwardens of the parish to which such burial ground belongs, with the consent of the vestry or persons possessing the powers of vestry for ecclesiastical purposes of or in such parish, and of the bishop of the diocese, to convey any chapel belonging to such parish, and situate in or attached to such burial ground, and the site thereof, to any persons named by the incumbent and churchwardens of the parish within which the same is situate, with the consent of the vestry or persons possessing the powers of

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Sect. 49. Note.

extended, it shall also apply in respect of burials at the expense of any hospital or infirmary in like manner as to burials at the expense of a union or parish. The phrase "cemeteries established under the authority of Parliament" has been held to mean cemeteries authorized by special Act of Parliament, and not to comprise burial grounds provided under the Burial Acts (*Reg.* v. *Maude*, 5 E. & B. 702 ; 25 L. J. M. C. 45 ; 2 Jur. (N. S.) 182).

Sect. 50. Note.

This section is repealed, so far as it relates to a burial ground under a burial authority, by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12.

vestry of or in such parish for ecclesiastical purposes, and of the said bishop, and upon such trusts for such last-mentioned parish, and subject to such conditions to be performed on behalf of such parish, and with such provision for the appointment of new trustees, as to the said bishop may seem proper; and such conveyance shall be effectual to pass all the estate and interest vested in any persons in trust or in behalf of the parish to which such chapel and the site thereof belong; and after the execution of such conveyance all obligation on such last-mentioned parish, or any trustees or others on behalf thereof, to repair such chapel, or to pay any stipend to the minister thereof, or otherwise in relation to or in connection with such chapel, shall cease. Sect. 51.

LII. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say, Interpretation of terms.

"Parish" shall mean every place having separate overseers of the poor, and separately maintaining its own poor:

"Ratepayers" shall mean the persons for the time being assessed to and paying rates for the relief of the poor of the parish:

"Incumbent" and "minister" shall, in respect of any fee made payable to an incumbent or minister under this Act, mean the clergyman who would have been entitled to the fee had the body been buried in the churchyard or burial ground of the parish from which it came, or in the burial ground of the ecclesiastical district in case such district has a burial ground at the passing of this Act; and if any difference shall arise between two or more persons severally claiming to be the incumbent or minister under this provision, such difference shall be determined by the bishop of the diocese: Differences between incumbents to be determined by bishop.

"Churchwardens" shall mean also chapelwardens, or other persons discharging the duties of churchwardens:

"Overseers" shall mean also any persons authorized and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor:

"Vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select or other vestry . . . elected under the Vestries Act, 1831, or elected under the provisions of any 1 & 2 Will. 4, c. 60.

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Note. For meanings of "parish" see also the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 18; and the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 5.

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local Act of Parliament for the government of any parish by vestries, in which parishes it shall mean such select or other vestry :

"Clerk" shall mean the clerk appointed pursuant to this Act by any burial board appointed under this Act.

Definition of "the metropolis."

LIII. For the purposes of this Act, the expression "the metropolis" shall be construed to mean and include the cities and liberties of London and Westminster, the borough of Southwark, and the parishes, precincts, townships, and places mentioned in the schedule (A.) to this Act.

Saving of rights of cemetery companies.

LIV. Provided always, that nothing in this Act contained shall extend to take away, diminish, alter, or prejudice any of the rights, powers, or authorities vested in any of the cemetery companies, incorporated under the several Acts mentioned in the said schedule (B.) to this Act ; but all such rights, powers, and authorities shall be as good, valid, and effectual as if this Act had not passed.

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SCHEDULE (A.).

The City of London and the liberties thereof, the Inner Temple and Middle Temple, and all other places and parts of places contained within the exterior boundaries of the liberties of the City of London.

IN MIDDLESEX.

The City and Liberties of Westminster.
The parishes of St. Margaret and St. John the Evangelist.
The parish of St. Martin-in-the-Fields.
The parish of St. George Hanover Square.
The parish of St. James.
The parish of St. Mary-le-Strand, as well within the liberty of Westminster as within the Duchy liberty.
The parish of St. Clement Danes, as well within the liberty of Westminster as within the Duchy liberty.
The parish of St. Paul Covent Garden.
The parish of St. Anne Soho.
Whitehall Gardens (whether the same be parochial or extra-parochial).
Whitehall (whether the same be parochial or extra-parochial).
Richmond Terrace (whether the same be parochial or extra-parochial).
The close of the Collegiate Church of St. Peter.

The parishes of St. Giles-in-the-Fields and St. George Bloomsbury.
The parishes of St. Andrew Holborn and St. George the Martyr.
The liberty of Hatton Garden, Saffron Hill, and Ely Rents.

IN MIDDLESEX (*continued*).

The liberty of the Rolls.
The parish of St. Pancras.
The parish of St. John Hampstead.
The parish of St. Marylebone.
The parish of Paddington.
The precinct of the Savoy.
The parish of St. Luke.
The liberty of Glasshouse Yard.
The parish of St. Sepulchre.
The parish of St. James Clerkenwell, including both districts of St. James and St. John.
The parish of St. Mary Islington.
The parish of St. Mary Stoke Newington.
The Charterhouse.
The parish of St. Mary Whitechapel.
The parish of Christchurch Spitalfields.
The parish of St. Leonard Shoreditch.
The liberty of Norton Folgate.
The parish of St. John Hackney.
The parish of St. Matthew Bethnal Green.
The hamlet of Mile End Old Town.
The hamlet of Mile End New Town.
The parish of St. Mary Stratford Bow.
The parish of Bromley St. Leonard.
The parish of All Saints Poplar.
The parish of St. Anne Limehouse.
The hamlet of Ratcliffe.
The parish of St. Paul Shadwell.
The parish of St. George-in-the-East.
The parish of St. John Wapping.
The liberty of East Smithfield.
The precinct of St. Catherine.
The liberty of Her Majesty's Tower of London, consisting of—
  The liberty of the Old Artillery Ground.
  The parish of Trinity, Minories.
  The Old Tower precinct.
  The precinct of the Tower within.
  The precinct of Wellclose.
The parish of Kensington.
The parish of St. Luke Chelsea.
The parish of Fulham.
The parish of Hammersmith.
Lincoln's Inn.
New Inn.
Gray's Inn.
Staple Inn.
The part of Furnival's Inn in the county of Middlesex.
Ely Place.
The parish of Willesden.

IN KENT.

The parish of St. Paul Deptford.
The parish of St. Nicholas Deptford.
The parish of Greenwich.
The parish of Woolwich.
The parish of Charlton.
The parish of Plumstead.

IN SURREY.

The Borough of Southwark.
The parish of St. George the Martyr.
The parish of St. Saviour.
The parish of St. John Horsley-down.

Schedules.

IN SURREY (*continued*).

The parish of St. Olave.
The parish of St. Thomas.

The parish of Battersea (except the hamlet of Penge).
The parish of Bermondsey.
The parish of Camberwell.
The parish of Clapham.
The parish of Lambeth.
The parish of Newington.
The parish of Putney.
The parish of Rotherhithe.
The parish of Streatham.
The parish of Tooting.
The parish of Wandsworth.
The parish of Christchurch.
The Clink liberty.
The hamlet of Hatcham in the parish of Deptford.

Sects. 7, 54.

SCHEDULE (B.).

The several Cemeteries established under the several Acts herein-after mentioned; viz.—

2 & 3 Will. 4, cap. cx. An Act for establishing a general cemetery for the interment of the dead in the neighbourhood of the Metropolis:

6 & 7 Will. 4, cap. cxxix. An Act for establishing a cemetery for the interment of the dead southward of the Metropolis, to be called the "South Metropolitan Cemetery":

6 & 7 Will. 4, cap. cxxxvi. An Act for establishing cemeteries for the interment of the dead, northward, southward, and eastward of the Metropolis, by a company to be called "The London Cemetery Company":

7 Will. 4 & 1 Vict. cap. cxxx. An Act for establishing a cemetery for the interment of the dead westward of the Metropolis, by a company to be called "The West of London and Westminster Cemetery Company": And

4 & 5 Vict. cap. lxiii. An Act to establish a general cemetery for the interment of the dead, in the parishes of Saint Dunstan, Stepney, and Saint Leonard, Bromley, in the county of Middlesex:

The Victoria Park Cemetery in the parish of Saint Matthew, Bethnal Green, in the county of Middlesex: And

The Abney Park Cemetery in the parish of Saint Mary, Stoke Newington, in the county of Middlesex.

VESTRIES ACT, 1853.

16 & 17 VICT. CHAP. 65.

An Act to amend the Acts for the Regulation of Parish Vestries. [15th August, 1853.]

[Preamble recited the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 5; and the Vestries Act, 1819 (59 Geo. 3, c. 85), s. 3.]

Qualification for vote at vestry meeting. 58 Geo. 3, c. 69. 59 Geo. 3, c. 85.

[I.] No person shall be required, in order to be entitled to vote or be present at any vestry meeting held under the provisions of the Vestries Act, 1818, and the Vestries Act, 1819, to have paid any rate for the relief of the poor of the parish in which such meeting shall be held, which shall have been made or become due within three calendar months immediately preceding such vestry meeting.

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The payment of poor rates by persons voting is provided for by the sections of the Acts recited in the preamble.

Note.

This Act is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so far as it relates to parish meetings under that Act, and is therefore now applicable only to vestry meetings in urban parishes.

BETTING ACT, 1853.

16 & 17 VICT. CHAP. 119.

An Act for the Suppression of Betting Houses.* [20th August, 1853.]

[Such portion only of this Act is here printed as relates to the infliction of pecuniary penalties and the application of part thereof in aid of the poor rates or is necessary for understanding such portion. The Gaming Houses Act, 1854 (17 & 18 Vict. c. 38), ss. 4, 8, contains similar provisions.]

[Preamble recited 8 & 9 Vict. c. 109, s. 8.]

No house, &c. to be kept for purpose of owner or occupier betting with other persons, &c.

[I.] No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management or in any manner conducting the business thereof betting with persons resorting thereto; or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper, or person as aforesaid as or for

* This Act is extended to Scotland, subject to certain modifications (37 & 38 Vict. c. 15, s. 4).

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the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game, sport, or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and every house, office, room, or other place opened, kept, or used for the purposes aforesaid, or any of them, is hereby declared to be a common nuisance and contrary to law.

Betting houses to be gaming houses. 8 & 9 Vict. c. 109.

II. Every house, room, office, or place opened, kept, or used for the purposes aforesaid, or any of them, shall be taken and deemed to be a common gaming house within the meaning of the Gaming Act, 1845.

Penalty on owner or occupier of betting house.

III. Any person who being the owner or occupier of any house, office, room, or other place, or a person using the same, shall open, keep, or use the same for the purposes herein-before mentioned, or either of them; and any person who being the owner or occupier of any house, room, office, or other place, shall knowingly and wilfully permit the same to be opened, kept, or used by any other person for the purposes aforesaid, or either of them; and any person having the care or management of or in any manner assisting in conducting the business of any house, office, room, or place, opened, kept, or used for the purposes aforesaid, or either of them; shall, on summary conviction thereof before any two justices of the peace, be liable to forfeit and pay such penalty, not exceeding one hundred pounds, as shall be adjudged by such justices, and may be further adjudged by such justices to pay such costs attending such conviction as to the said justices shall seem reasonable, [*and on the non-payment of such penalty and costs], or in the first instance if to the said justices it shall seem fit, may be committed to the common gaol or house of correction, with or without hard labour, for any time not exceeding six calendar months.

Penalty on persons receiving money on condition of paying money on event of any bet, &c.

IV. Any person, being the owner or occupier of any house, office, room, or place opened, kept, or used for the purposes aforesaid, or either of them, or any person acting for or on behalf of any such owner or occupier, or any person having the care or management or in any manner assisting in conducting the business thereof, who shall receive, directly or indirectly, any money or valuable thing as a deposit on any bet on condition of paying any sum of money or other valuable thing on the happening of any event or contingency of or relating to a horse race or any other race, or any fight, game, sport, or exercise, or as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any such event or contingency, and

* The words in brackets are repealed as to England by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4.

any person giving any acknowledgment, note, security, or draft, on the receipt of any money or valuable thing so paid or given as aforesaid, purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency as aforesaid, shall, upon summary conviction thereof before two justices of the peace, forfeit and pay such penalty, not exceeding fifty pounds, as shall be adjudged by such justices, and may be further adjudged by such justices to pay such costs attending such conviction as to the said justices shall seem reasonable, [*and on the non-payment of such penalty and costs], or in the first instance, if to such justices it shall seem fit, may be committed to the common gaol or house of correction, with or without hard labour, for any time not exceeding three calendar months.

* * * * *

Penalty on persons exhibiting placards or advertising betting houses.

VII. Any person exhibiting or publishing or causing to be exhibited or published any placard, handbill, card, writing, sign, or advertisement, whereby it shall be made to appear that any house, office, room, or place is opened, kept, or used for the purpose of making bets or wagers, in manner aforesaid, or for the purpose of exhibiting lists for betting, or with intent to induce any person to resort to such house, office, room, or place for the purpose of making bets or wagers, in manner aforesaid, or any person who, on behalf of the owner or occupier of any such house, office, room, or place, or person using the same, shall invite other persons to resort thereto for the purpose of making bets or wagers, in manner aforesaid, shall, upon summary conviction thereof before two justices of the peace, forfeit and pay a sum not exceeding thirty pounds, and may be further adjudged by such justices to pay such costs attending such conviction as to the said justices shall seem reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such justices it shall seem fit, may be committed to the common gaol or house of correction, with or without hard labour, for any time not exceeding two calendar months.

Penalties and costs may be levied by distress.

VIII. If any person convicted under this Act on information before justices shall be adjudged to pay any penalty, or any costs and charges attending the conviction, and shall fail to pay such penalty or costs, the same may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of one of the convicting justices: Provided always, that if any person shall be committed to prison for default of payment of any penalty and costs, then the costs alone may be levied by distress as aforesaid.

Application of penalties.

IX. One-half of every pecuniary penalty which shall be adjudged to be paid under this Act shall be paid to the

* The words in brackets are repealed as to England by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4.

Sect. 9.

informer, and the remaining half shall be applied in aid of the poor rate of the parish in which the offence shall have been committed, and shall be paid for that purpose to the overseer or other person authorized to receive poor rates in such parish; or if the place wherein the offence shall have been committed shall be extra-parochial, then the justices by whom such penalty shall be adjudged to be paid shall direct such remaining half thereof to be applied in aid of the poor rate of such extra-parochial place, or, if there shall not be any poor rate therein, in aid of the poor rate of any adjoining parish or district.

* * * * *

BURIAL ACT, 1853.

16 & 17 VICT. CHAP. 134.

An Act to amend the Laws concerning the Burial of the Dead in England beyond the Limits of the Metropolis, and to amend the Act concerning the Burial of the Dead in the Metropolis. [20th August, 1853.]

[Only the section of this Act which refers to the burial of poor persons is printed here.]

* * * * *

Extension of certain provisions of 15 & 16 Vict. c. 85, to parishes not in the metropolis.

VII. All the provisions contained in the Burial Act, 1852, from section ten to section forty-two (both inclusive) of the said Act, and also in sections forty-four, fifty, fifty-one, and fifty-two of the said Act, shall extend and be applicable to and in respect of any parish not in the metropolis, and for the purpose of providing a burial ground for any such parish, or otherwise providing for the interment of the bodies of persons who would have had right of interment in the burial ground of any such parish, and generally in relation to every such burial ground to be so provided, and the fees and payments to be received in respect of interment or other rights therein, and otherwise, as if such sections were re-enacted in this Act . . . and section forty-nine of the said Act shall extend to all cemeteries already established and hereafter to be established under the authority of Parliament in like manner as to those mentioned in schedule (B.) to that Act; and as respects the cemeteries to which such section is hereby extended, the same shall also apply in respect of burials at the expense of any hospital or infirmary in like manner as to burials at the expense of a union or parish: Provided always, that in all

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Sect. 7. Note.

The words "cemeteries established under the authority of Parliament" apply only to cemeteries established by companies or individuals under special Acts (*Reg.* v. *Maude*, 5 E. & B. 702; 25 L. J. M. C. 45; 2 Jur. (N. S.) 182).

cases in which any burial board shall provide a new burial ground under the Burial Act, 1852, or under this Act, *that new burial ground shall be divided into consecrated and unconsecrated parts in such proportions*, and the unconsecrated part thereof shall be allotted in such manner and in such portions, as may be sanctioned by one of Her Majesty's principal Secretaries of State; *and when any burial board shall, by virtue of section thirty of the said Act, build on any burial ground provided by such board a chapel for the performance of the burial service according to the rites of the United Church of England and Ireland, they shall also build, on the portion of such ground set apart for burials otherwise than according to the rites of the said Church, such chapel accommodation for the performance of burial service by persons not being members of the said Church as may be approved of by one of Her Majesty's Secretaries of State.*

Sect. 7.

Division of burial grounds under 15 & 16 Vict. c. 85, and this Act into consecrated and unconsecrated parts, &c.

* * * * *

GAMING HOUSES ACT, 1854.

17 & 18 VICT. CHAP. 38.

An Act for the Suppression of Gaming Houses.

[24th July, 1854.]

[Such portion only of this Act is here printed as relates to the infliction of pecuniary penalties and the application of part thereof in aid of the poor rates or is necessary for understanding such portion. The Betting Act, 1853 (16 & 17 Vict. c. 119), ss. 3, 4, 9, contains similar provisions.]

[Preamble recited 8 & 9 Vict. c. 109.]

[I.] Any person who shall wilfully prevent any constable or officer authorized under the provisions of the Gaming Act, 1845, to enter any house, room, or place from entering the same or any part thereof, or who shall obstruct or delay any such constable or officer in so entering, and any person who by any bolt, bar, chain, or other contrivance, shall secure any external or internal door of or means of access to any house, room, or place so authorized to be entered, or shall use any means or contrivance whatsoever for the purpose of preventing, obstructing, or delaying the entry of any constable or officer authorized as aforesaid into any such house, room, or place, or any part thereof, may for every such offence, on a summary conviction of the same before two justices of the peace, be adjudged by such justices to forfeit and pay any penalty not exceeding one hundred pounds, together with such costs

Penalty on persons obstructing the entry of constables, &c.

8 & 9 Vict. c. 109.

The words of this section printed in italics are repealed by the Burial Act, 1900 (63 & 64 Vict. c. 15), s. 12, and replaced by other provisions of that Act.

Sect. 7. Note.

Sect. 1.

attending the said conviction as to the said justices shall appear reasonable ; and [on the non-payment of such penalty and costs, or in the first instance], if to the said justices it shall seem fit, may be committed to the common gaol or house of correction, with or without hard labour, for any period not exceeding six calendar months.

Obstructing entry of constable, &c. to be evidence of house being used as a common gaming house.

II. Where any constable or officer authorized as aforesaid to enter any house, room, or place is wilfully prevented from or obstructed or delayed in entering the same or any part thereof, or where any external or internal door of or means of access to any such house, room, or place so authorized to be entered shall be found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part thereof of any constable or officer authorized as aforesaid, or for giving an alarm in case of such entry, or if any such house, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing, or destroying any instruments of gaming, it shall be evidence, until the contrary be made to appear, that such house, room, or place is used as a common gaming house within the meaning of this Act and of the former Acts relating to gaming, and that the persons found therein were unlawfully playing therein.

Penalty on persons refusing to give names and addresses, or giving false names or addresses.

III. If any person found in any house, room, or place entered by any constable or officer authorized as aforesaid to enter the same, upon being arrested by any such constable or officer, or upon being brought before any justices, on being required by such constable or officer or by such justices to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon summary conviction thereof before the same or any other justices be adjudged to pay any penalty not exceeding fifty pounds, together with such costs as to such justices shall appear reasonable, and [on the non-payment of such penalty and costs, or in the first instance], if to such justices it shall seem fit, may be imprisoned in the common gaol or house of correction for any period not exceeding one month.

Penalty on persons keeping gaming houses, &c.

IV. Any person, being the owner or occupier or having the use of any house, room, or place, who shall open, keep, or use the same for the purpose of unlawful gaming being carried on therein, and any person who, being the owner or occupier of any house or room, shall knowingly and wilfully permit the same to be opened, kept, or used by any other person for the

Sects. 1, 3, 4.

Note.

The words in brackets are repealed as to England by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4.

purpose aforesaid, and any person having the care or management of or in any manner assisting in conducting the business of any house, room, or place opened, kept, or used for the purpose aforesaid, and any person who shall advance or furnish money for the purpose of gaming with persons frequenting such house, room, or place, may, on summary conviction thereof before any two justices of the peace, be adjudged by such justices to forfeit and pay such penalty, not exceeding five hundred pounds, as to such justices shall seem fit, and may be further adjudged by such justices to pay such costs attending such conviction as to them shall seem reasonable; and [on the non-payment of such penalty and costs, or in the first instance], if to the said justices it shall seem fit, may be committed to the common gaol or house of correction, with or without hard labour, for any time not exceeding twelve calendar months.

* * * * *

Penalties and costs may be levied by distress.

VII. If any person convicted under this Act on information before justices shall be adjudged to pay any penalty, or any costs and charges attending the conviction, and shall fail to pay such penalty or costs, the same may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of one of the convicting justices: Provided always, that if any person shall be committed to prison for default of payment of any penalty and costs, then the costs alone may be levied by distress as aforesaid.

Application of penalties.

VIII. One-half of any pecuniary penalty which shall be adjudged to be paid under this Act shall be paid to the person laying the information upon which the conviction takes place, and the remaining half shall be applied in aid of the poor rate of the parish in which the offence shall have been committed, and shall be paid for that purpose to the overseer or other person authorized to receive poor rates in such parish, or if the place wherein the offence shall have been committed shall be extra-parochial, then the justices by whom such penalty shall be adjudged to be paid shall direct such remaining half thereof to be applied in aid of the poor rate of such extra-parochial place, or if there shall not be any poor rate therein, in aid of the poor rate of any adjoining parish or district.

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POOR (BURIALS) ACT, 1855.

18 & 19 VICT. CHAP. 79.

An Act to amend the Law regarding the Burial of Poor Persons by Guardians and Overseers of the Poor.*

[30th July, 1855.]

[Preamble recited 7 & 8 Vict. c. 101, s. 31.]

Where the burial ground of a parish is closed or overcrowded, the guardians or overseers may bury poor persons in neighbouring parish.

[I.] Where the guardians of any union or parish, or any of their officers duly authorized in that behalf, or the overseers of any parish not under a board of guardians, shall undertake the burial of any poor person, or shall contribute money or other aid towards the same, and the burial cannot take place in the parish where, according to the provisions of the said Act, the same would have been required to take place, by reason of the public burial ground of such parish having been closed, and no other having been provided, or where, in consequence of the crowded state of such burial ground, the guardians or overseers respectively are of opinion that the burial of such dead body therein would be improper, it shall be lawful to bury such body in a public burial ground (some part of which has been consecrated) of or in some other parish, as near as conveniently may be to the parish wherein the burial would have been required to take place according to the provisions of the said Act: Provided, that in all cases of burial under the directions of the guardians or their officers, or of the overseers, as aforesaid, the fee or fees payable by the custom of the place where the burial may be, or under the provisions of any Act of Parliament, shall be paid by the said guardians or overseers for the burial of each such body to the person or persons who by such custom or under such Act of Parliament shall be entitled to receive such fee or fees.

Agreements with cemetery companies or burial boards.

II. The guardians of any union or parish, or the overseers of any parish not under a board of guardians, may from time to

* For "Poor Law Board" in this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Note.

For the powers and the duty of guardians to bury the bodies of poor persons dying within the union, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 31, and the note thereon.

Sect. 2.

Note.

Since the Local Government Act, 1894, which transferred the powers and duties of burial boards in any rural parish to the parish council, and in any parish partly rural and partly urban to the parish council and urban district council to be exercised by a joint committee appointed by such councils (see sect. 53 (2) of that Act), agreements may be made by guardians under this section with any such parish council or joint committee, as the case may be.

time enter into agreements with the proprietors of any cemetery established under the authority of Parliament, or with any burial board duly constituted under the statutes in that behalf, for the burial of the dead bodies of any poor persons which such guardians or overseers may undertake to bury, or towards the burial whereof they may render assistance; and thereupon the burial of any such body, under the directions of the said guardians or their officer, or of such overseers, or with their aid respectively, in such cemetery or in the burial ground of such burial board (unless the deceased person, or the husband or wife or next of kin of such deceased person, have otherwise expressly desired), shall be lawful: Provided, however, that no such agreement shall be valid, unless made in such form and with such stipulations as the Poor Law Board shall approve.

Construction. 4 & 5 Will. 4, c. 76.

III. The words contained in this Act shall be construed in like manner as in the Poor Law Amendment Act, 1834, and in the several Acts incorporated therewith.

METROPOLIS MANAGEMENT ACT, 1855.

18 & 19 VICT. CHAP. 120.

An Act for the better Local Management of the Metropolis.*
[14th August, 1855.]

* * * * *

The full number of vestrymen to be chosen at first election, and existing vestries superseded.

VIII. Such vestrymen shall forthwith be deemed to constitute the vestry of such parish, and shall supersede any existing vestry therein, and exercise the powers and privileges held by such existing vestry, save as in this Act otherwise provided; and the authority of such vestry may be pleaded before any justice or justices of the peace or in any court of law in regard to all parochial property or monies due, or holdings or contracts, or other documents of the like nature, under the control or in the keeping of such existing vestry; and all parish officers or boards shall account to them in like manner as they are by law liable to account to such existing vestry.

* Most of the sections of this Act relating to the duties of overseers in the metropolis are repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14), which, by sect. 11, enacts that the council of each metropolitan borough shall be the overseers of every parish within their borough. The sections here printed for the most part relate to the "constitution, election, and proceedings" of the old vestries, which by sect. 2 (5) of the above Act are applicable to the new borough councils. The rest of the Act relates solely to details of local government and does not come within the scope of this work.

Sect. 9.

As to the term of office of vestrymen.

IX. All members from time to time elected at the annual elections after the first election shall go out of office at the time appointed for the annual election in the third following year, except such members as are elected to supply vacancies occasioned otherwise than by the effluxion of time; and such last-mentioned members shall go out of office at the respective times when the terms of office of the members in whose places they are respectively elected would have expired by effluxion of time.

Vacancies to be filled up at annual elections.

X. At every election of vestrymen under this Act, except the first, for any parish or any ward of any parish, the parishioners of such parish entitled to vote in such election shall elect as many vestrymen as there are vacancies in the vestry, or among the vestrymen elected for such ward, whether such vacancies be occasioned by the expiration of the term of office, or by death or otherwise.

* * * * *

Meeting to elect a chairman.

XXX. At every meeting of any vestry under this Act, in the absence of the persons authorized by law to take the chair, the members present shall elect a chairman for the occasion before proceeding to other business, and the chairman, in case of an equality of votes on any question, shall have a second or casting vote.

* * * * *

No resolution of any district board, or of any vestry, to be revoked at a subsequent meeting, unless under certain circumstances.

LVII. No resolution or other act of the board of works for any district, or of any such vestry, shall be revoked or altered at any subsequent meeting, unless such subsequent meeting be specially convened for the purpose, nor unless such revocation or alteration be determined upon by a majority consisting of two-thirds of the members of the board, or of the vestrymen present at such subsequent meeting, if the number of members or vestrymen present at such subsequent meeting be not greater by one-fifth than the number present when such resolution was made or such act was done, but if the number of members or vestrymen present at such subsequent meeting be greater by one-fifth than the number present at such former meeting, then such revocation or alteration may be determined upon by a mere majority.

Committees may be appointed.

LVIII. It shall be lawful for the Metropolitan Board of Works, and the board of works for any district, and any such vestry respectively, to appoint a committee or committees for any purposes which, in the discretion of the board or vestry,

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Sect. 57. Note.

Repealed so far as it relates to district boards and their districts by the London Government Act, 1899 (62 & 63 Vict. c. 14).

would be better regulated and managed by means of such committee, and at any meeting to continue, alter, or discontinue such committee. Sect. 58.

LIX. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the committee unless three members of the committee are present. Powers of committees.

LX. Entries of all proceedings of every such district board, and of any such vestry, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the board or vestry, and shall be signed by the members present, or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the board or vestry having been duly convened or held, or of the presence at any such meeting of the persons named in any such entry as being present thereat, or of such persons being members of the board or vestry, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved; and every such board and vestry shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid by them or under their authority, and of all liabilities incurred by them, and of the several purposes for which such sums of money are received and paid and such liabilities incurred, and copies of all contracts entered into by any such board or vestry. Minutes of proceedings of district boards and of vestries to be entered.

LXI. All such books shall at all reasonable times be open to the examination of every member of the board and vestry respectively to which such books belong, and of every owner of property, churchwarden, overseer, and ratepayer within the metropolis, as regards books of the said metropolitan board, and of every owner of property, churchwarden, overseer, and ratepayer within any district or parish, as regards books belonging to the district board or vestry thereof (as the case may be), and of every creditor on the rates raised under this Act by any such board or vestry respectively, without fee or reward, and they respectively may take copies of or extracts from such books or any part thereof, without paying for the same; and in case the members of the board or vestry, or any of them, or any of the officers or servants of the board or vestry having the custody of All books to be open to inspection.

Repealed so far as relates to district boards and their districts by the London Government Act, 1899. Sect. 60. Note.

Repealed so far as relates to district boards and their districts by the London Government Act, 1899. Sect. 61. Note.

Sect. 61.

the said books, being thereunto reasonably requested, refuse to permit or do not permit any such owner of property, churchwarden, overseer, ratepayer, or creditor to examine the same, or take any copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before two justices, forfeit any sum not exceeding ten pounds.

Power to district boards and vestries to appoint officers.

LXII. Subject to the provisions herein contained the board of works for every district under this Act, and the vestry of every parish mentioned in schedule (A.) to this Act, shall respectively appoint or employ, or continue for the purposes of this Act, and may remove at pleasure, such clerks, treasurers, and surveyors, and such other officers and servants as may be necessary, and may allow to such clerks, treasurers, surveyors, officers, and servants respectively such salaries and wages as the board or vestry may think fit.

Clerk and treasurer not to be the same person.

LXIII. No person holding the office of treasurer under any district board or any such vestry, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or in any manner assist or officiate in the office of clerk; and neither the person holding the office of clerk, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or in any manner assist or officiate in the office of treasurer; and every person offending in any of the cases specified in this provision shall forfeit and pay the sum of one hundred pounds, which may be recovered by any person, with full costs of suit, by action in any of the superior courts of law.

Penalty on officers, &c. being interested in contracts, or exacting fees.

LXIV. No officer or servant of the metropolitan board, or of any district board or any such vestry, shall be in anywise concerned or interested in any contract or work made with or executed for such board or vestry; and if any such officer or servant be so concerned or interested, or, under colour of his office or employment, exact, take, or accept any fee or reward whatsoever, other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under such board or vestry, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person, with full costs of suit, by action in any of the superior courts of law; provided that no person, being a shareholder of any joint stock company, shall be prevented from being employed as an officer or servant by reason of any contract between such company and such board or vestry, or of any work executed by such company.

Officers, &c. intrusted with money to give

LXV. Before any officer or servant as aforesaid enters upon any office or employment under this Act, by reason whereof he

Sect. 65.

security for duly accounting for the same.

will or may be intrusted with the custody or control of money, the board or vestry shall require and take from him such security for the faithful execution of such office or employment, and for duly accounting for all monies which may be intrusted to him by reason thereof, as they may think sufficient; and every such officer and servant, as well during his continuance in office or employment as upon his resignation, dismissal, or ceasing to hold his office or employment, shall respectively, when and in such manner as shall be required by the board or vestry, make out and deliver a true and perfect account, in writing signed by him, of all monies received by him for the purposes of this Act, and stating how, and to whom, and for what purpose such monies have been disposed of, and shall together with such account deliver the vouchers or receipts for all payments made by him, and pay over to the treasurer or such person as the board or vestry may appoint all monies owing by him; and if any such officer or servant fail to render such account, or to produce and deliver up such of the said vouchers and receipts as may be in his possession or power, or to pay over any such monies as aforesaid, or if, for the space of five days after being thereunto required, he fail to deliver up to the board or vestry, or to such person as they may appoint, all books, papers, writings, property, effects, matters, and things in his possession or power belonging to the board or vestry, then and in every such case a justice shall, on complaint being made to him in that behalf, summon the party charged to appear and answer the complaint before two justices, at a time and place to be specified in the summons; and upon the appearance of the party charged, or upon proof that the summons was personally served upon him or left at his last known place of abode in England, and if it appear to the last-mentioned justices that he has failed to render any such account, or to produce and deliver up any such vouchers or receipts, or any such books, papers, writings, property, effects, matters, or things as aforesaid, and that he still fails or refuses so to do, it shall be lawful for them, by warrant under their hands and seals, to commit the offender to gaol, there to remain, without bail, until he shall have rendered such account, and produced and delivered up all such vouchers, receipts, books, papers, writings, property, effects, matters, and things in respect of which the charge was made; and if it appears that the party charged has failed to pay over any such monies as aforesaid, and that he still fails or refuses so to do, it shall be lawful for the last-mentioned justices, by a like warrant, to cause the same to be levied by distress and sale of his goods and chattels, and in default of any sufficient distress to commit him to gaol, there to remain, without bail, for a period not exceeding three months, unless such monies be sooner paid: Provided always, that if the complainant, by deposition on oath, show to the satisfaction of any justice that there is probable cause for believing that the party charged intends to

If officer fail to render account, &c. justices may commit offender to prison.

Power to levy by distress.

Sect. 65.

abscond, it shall be lawful for such justice, without previous summons, by warrant under his hand and seal to cause him to be forthwith apprehended; and in such case the said party shall, within twenty-four hours after apprehension, be brought before the same or some other justice, who may order that he be discharged from custody, if such justice think that there is no sufficient ground for detention, or that he be further detained until he be brought before two justices at a time and place to be named in the order, unless bail to the satisfaction of the justice be given for the appearance of the party before such two justices: Provided also, that no such proceeding shall be construed to relieve or discharge any surety of the offender from any liability whatsoever.

District boards and vestries to provide proper offices, and to cause daily attendance to be given.

LXVI. Every such district board and vestry respectively shall provide and maintain such offices within their respective district or parish as may be necessary for the purposes of this Act, and shall take care that their clerk, or some person duly authorized by them in that behalf, attends at their office daily (Sundays, Christmas Day, and Good Friday, and days appointed for any general fast or thanksgiving, alone excepted), for the purpose of receiving notices and transacting the ordinary business of the board or vestry under this Act.

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How sums to be raised by vestries and district boards for defraying their expenses.

CLVIII. Every vestry and district board shall from time to time, by order under their seal, require the overseers of their parish, or of the several parishes in their district, to levy, and to pay over to the treasurer of such vestry or board, or into any bank in such order mentioned, and within the time or times thereby limited, the sums which such vestry or board may require for defraying the expenses of the execution of this Act (and such orders may be made wholly or in part in respect of expenses already incurred or of expenses to be thereafter incurred); and every such vestry and board shall distinguish in their orders sums required for defraying expenses of constructing, altering, maintaining, and cleansing the sewers or otherwise connected with sewerage, and also, where the Act of the session holden in the third and fourth years of King William the Fourth, chapter ninety, or any other Act by virtue whereof land is rated in respect of expenses of lighting at a less amount

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Sect. 66.

Note.

Repealed, so far as relates to district boards and their districts, by the London Government Act, 1899.

Sect. 158.

Note.

By sect. 11 (1) of the London Government Act, 1899, the council of each metropolitan borough is constituted the overseers of every parish within their borough; and by sect. 10 of that Act one rate only is to be levied, to include both the general and the poor rate, and is to be assessed, made, collected and levied as if it were the poor rate.

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in proportion to the annual value thereof than houses, or is wholly exempted from being rated in respect of such expenses, is in force in any parish, or any part of any parish, at the time of the passing of this Act, distinguish, as regards such parish, or part, the sums required for defraying expenses of lighting their parish or district from sums required for defraying other expenses of executing this Act. * * *

Vestries and boards may exempt parts not benefited by expenditure from payment.

CLIX. Where it appears to any vestry or district board that all or any part of the expenses for defraying which any sum is by such vestry or board ordered to be levied as aforesaid have or has been incurred for the special benefit of any particular part of their parish or district, or otherwise have or has not been incurred for the equal benefit of the whole of their parish or district, such vestry or board may, by any such order, direct the sum or sums necessary for defraying such expenses or any part thereof to be levied in such part, or exempt any part of such parish or district from the levy, or require a less rate to be levied thereon, as the circumstances of the case may require; and any such board may refrain, where any entire parish ought in their judgment to be so exempt, from issuing an order for levying any money thereon, notwithstanding they may issue an order or orders for levying sums upon any other parish or parishes in their district.

* * * * *

Power to metropolitan board, or any one authorized by them, to inspect rates made for county or part of county within the metropolis.

CLXXI. The clerk of the said metropolitan board, or any person authorized by the said board in this behalf, may from time to time inspect any rate made or to be made for any county any part of which is within the metropolis; and any basis or standard for the county rate of any such county, and any returns concerning all or any of the parishes and places, whether parochial or extra-parochial in the metropolis, delivered or to be delivered in pursuance of any Act relating to county rates, and any rate made by the Commissioners of Sewers of the City of London, and any valuation on which the same is made, and may take copies or extracts from any such rates, basis or standard, returns or valuation, without payment of any fee or reward; and if any person having the custody of any such rate, basis or standard, return or valuation, wilfully neglect or refuse to permit any such clerk or person authorized as aforesaid to inspect the same, or to take copies or extracts of or from the same, at all reasonable times, he shall forfeit for every such offence any sum not exceeding ten pounds.

* * * * *

Interpretation of terms: "the metropolis:" "the city of London:"

CCL. In the construction of this Act "the metropolis" shall be deemed to include the city of London, and the parishes and places mentioned in the schedules (A.), (B.), and (C.), to this Act; "the city of London" shall be deemed to include all parts

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now within the jurisdiction of the Commissioners of Sewers for the City of London; and the word "parish" shall include any place mentioned in schedule (A.) to this Act, and any place or combination of places mentioned in schedule (B.) to this Act, for which one or more member or members is or are to be elected to any district board; the expression "the overseers of the poor" shall include any persons authorized to make and collect or cause to be collected the rate for the relief of the poor in any parish; any expression referring to any rate or rates raised under this Act by the Metropolitan Board of Works or any vestry or district board shall mean the sums and rates authorized to be raised by the said metropolitan board and the sums authorized to be raised by any vestry and district board respectively; the word "owner" shall (except for the purpose of the provision of this Act requiring notice to be served on owners or reputed owners of land, before application to one of Her Majesty's principal Secretaries of State for his consent to exercise powers of taking land, or any right or easement in or over land compulsorily), mean the person for the time being receiving the rack-rent of the lands or premises in connection with which the said word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rack-rent; the word "street" shall apply to and include any highway (except the carriageway of any turnpike road), and any road, bridge (not being a county bridge), lane, footway, square, court, alley, passage, whether a thoroughfare or not, and a part of any such highway, road, bridge, lane, footway, square, court, alley, or passage; the word "drain" shall mean and include any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed, and shall also include any drain for draining any group or block of houses by a combined operation under the order of any vestry or district board; and the word "sewer" shall mean and include sewers and drains of every description, except drains to which the word "drain," interpreted as aforesaid, applies; and the word "ashpit" shall include "dustbin."

"parish:"

"overseers of the poor:"

"rates:"

"owner:"

"street:"

"drain:"

"sewer:"

"ashpit."

* * * * *

Schedules.

SCHEDULE (A.).

PART I.

Parishes each electing Two Members of the Metropolitan Board of Works.

Saint Marylebone.
Saint Pancras.
Lambeth.
Saint George Hanover Square.
Islington, Saint Mary.
Shoreditch, St. Leonard.

PART II.

Parishes each electing One Member of the Metropolitan Board of Works.

Paddington.
Saint Matthew Bethnal Green.
Saint Mary Newington, Surrey.
Camberwell.
Saint James Westminster.
Saint James and Saint John Clerkenwell to be considered as one parish.
Chelsea.
Kensington, Saint Mary Abbot.
Saint Luke Middlesex.
Saint George the Martyr Southwark.
Bermondsey.
Saint George-in-the-East.
Saint Martin-in-the-Fields.
Hamlet of Mile End Old Town.
Woolwich.
Rotherhithe.
Saint John Hampstead.

Schedules.

Note.

The schedules are repealed so far as they relate to the election of members of the Metropolitan Board of Works by the S. L. R. Act, 1892.

By the Metropolis Management Amendment Act, 1885 (48 & 49 Vict. c. 33), the parishes of St. Peter and St. Paul, Hammersmith, and Fulham, forming together the Fulham district, were separated and became parishes, each having an incorporated vestry as though they had been named in Part II. of schedule (A.).

By the Metropolis Management (Battersea and Westminster) Act, 1887 (50 & 51 Vict. c. 17), the parish of St. Mary, Battersea, excluding Penge, was separated from the Wandsworth district, and became a parish under Part II. of schedule (A.), and the Westminster district was dissolved, and the parishes of St. Margaret and St. John became a united parish as though it had been included in the said schedule.

By the Metropolis Management (Plumstead and Hackney) Act,

Schedules.

SCHEDULE (B.).

PARISHES UNITED INTO DISTRICTS FOR THE PURPOSES OF THE ACT.

PART I.

Name of District.	Parishes.	Number of Members to be elected to District Board.
Whitechapel District .	Saint Mary Whitechapel .	27
	Christchurch Spitalfields .	12
	Saint Botolph without Aldgate, in the County of Middlesex . .	6
	Holy Trinity, Minories .	1
	Saint Katherine, Precinct of	1
	Mile End New Town, Hamlet of . . .	6
	Liberty of Norton Folgate	3
	Old Artillery Ground .	1
	Tower, District of . .	1
	TOTAL . .	58
Westminster District .	Saint Margaret . .	30
	Saint John the Evangelist	27
	TOTAL . .	57
Greenwich District .	Saint Paul Deptford, including Hatcham . .	21
	Saint Nicholas Deptford .	6
	Greenwich . . .	30
	TOTAL . .	57

Schedules.

Note.

1893 (56 & 57 Vict. c. 55), the parish of Plumstead was taken away from the Plumstead district and included in Part II. of schedule (A.); the remaining parishes of the Plumstead district form the Lee district; the Hackney district was dissolved, and the parishes of St. Mary, Stoke Newington, and Hackney became separate parishes under the said schedule.

PART I. (*continued*). Schedules.

Name of District.	Parishes.	Number of Members to be elected to District Board.
Wandsworth District .	Clapham	18
	Tooting Graveney . .	3
	Streatham . . .	9
	Saint Mary Battersea, excluding Penge . .	12
	Wandsworth . . .	9
	Putney, including Roehampton . . .	6
	TOTAL . .	57
Hackney District .	Hackney	51
	Saint Mary Stoke Newington	6
	TOTAL . .	57
Saint Giles' District .	Saint Giles-in-the-Fields .	27
	Saint George Bloomsbury	21
	TOTAL . .	48
Holborn District .	Saint Andrew Holborn above Bars . . .	24
	Saint George the Martyr .	9
	Saint Sepulchre, in the County of Middlesex .	6
	Saffron Hill, Hatton Garden, Ely Rents, and Ely Place	9
	The Liberty of Glasshouse Yard	1
	TOTAL . .	49
Strand District . .	Saint Anne Soho . .	18
	Saint Paul Covent Garden	9
	Saint John the Baptist Savoy, or Precinct of the Savoy . . .	1
	Saint Mary-le-Strand .	3
	Saint Clement Danes .	15
	Liberty of the Rolls .	3
	TOTAL . .	49

Schedules.

PART I. (*continued*).

Name of District.	Parishes.	Number of Members to be elected to District Board.
Fulham District .	Saint Peter and Saint Paul Hammersmith . .	24
	Fulham	15
	TOTAL . .	39
Limehouse District .	Saint Anne Limehouse .	15
	Saint John Wapping .	3
	Saint Paul Shadwell .	6
	Ratcliffe, Hamlet of .	12
	TOTAL . .	36
Poplar District . .	All Saints Poplar . .	24
	Saint Mary Stratford-le-Bow	9
	Saint Leonard Bromley .	15
	TOTAL . .	48
Saint Saviour's District	Christchurch . . .	15
	Saint Saviour (including the Liberty of the Clink) . . .	24
	TOTAL . .	39

PART II.

Name of District.	Parishes.	Number of Members to be elected to District Board.
Plumstead District,	Charlton next Woolwich .	9
	Plumstead . . .	12
	Eltham	6
united with	Lee	9
	Kidbrooke . . .	1
	TOTAL . .	37
Lewisham District .	Lewisham, including Sydenham Chapelry .	24
	Hamlet of Penge . .	3
	TOTAL . .	27

The Parish of Rotherhithe, united with Saint Olave District	Saint Olave	12
	Saint Thomas Southwark	1
	Saint John Horsleydown	15
	TOTAL	28

SCHEDULE (C.).

The Close of the Collegiate Church of Saint Peter.
The Charter House.
Inner Temple.
Middle Temple.
Lincoln's Inn.
Gray's Inn.
Staple Inn.
Furnival's Inn.

BURIAL ACT, 1855.

18 & 19 VICT. CHAP. 128.

An Act further to amend the Laws concerning the Burial of the Dead in England. [14th August, 1855.]

[Only so much of this Act as relates to the levying of poor rates to pay expenses of burial boards and of keeping closed churchyards in repair is included here.]

[Preamble recites 15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134; and 17 & 18 Vict. c. 87.]

* * * * *

IX. [*Repeal of so much of* 15 *&* 16 *Vict. c.* 85, *s.* 24, *as enacts that no ground shall be appropriated as a burial ground or as* New burial ground not to be within

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Note.

Parish lands appropriated by guardians for burial grounds under the Burial Act, 1857 (20 & 21 Vict. c. 81), s. 6, are subject to the provisions of this section.

The one hundred yards mentioned in this section are to be measured from the walls of the dwelling-house, not from the wall or boundary of the curtilage adjoining the house (*Wright* v. *Wallasey Local Board*, 18 Q. B. D. 783).

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100 yards of a dwelling-house.

an addition to a burial ground nearer than 200 *yards to any dwelling-house without the consent in writing of the owner, lessee, and occupier of such dwelling-house.*] No ground not already used as or appropriated for a cemetery shall be used for burials under the said Act or this Act, or either of them, within the distance of one hundred yards from any dwelling-house, without such consent as aforesaid.

* * * * *

Expenses of burial boards in places not separately maintaining their own poor.

XIII. Where any district (whether a parish or township or other sub-division) not separately maintaining its own poor, but forming part of a parish maintaining its own poor, or of an incorporation or other union maintaining the poor of the places comprised therein, by means of a common rate, shall have a burial board, or shall form part of a place or union of places not co-extensive with the area rated for the relief of the poor, and having one burial board, it shall be lawful for such respective burial board to issue their certificate to the overseers of such parish, or the overseers or other persons authorized to make and collect or cause to be collected such common rate (as the case may be), for payment of the sums required for the expenses of such burial board, or, where such district not separately maintaining its own poor forms part only of the area of the burial board, of the sums required in respect of the portion of such expenses to be borne by such district, in like manner as if such district had been a parish separately maintaining its own poor, and such overseers or persons authorized as aforesaid had been the overseers thereof; and such overseers or persons shall pay such sums as shall be required by such certificate, according to the directions of such burial board, and shall levy such sums as may be required for such payments to the burial board by an addition to the parish

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Note.

Provision is made for such a district or area as herein mentioned appointing a burial board by sect. 12 of this Act, and by the Burial Act, 1857 (20 & 21 Vict. c. 81), s. 5.

If the parish or district separately maintains its poor, the expenses of the burial board are paid out of the poor rate for the parish under sect. 19 of the Burial Act, 1852 (15 & 16 Vict. c. 85).

In rural parishes, burial boards were abolished by the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 7 (5), 53 (1) (2), and their powers transferred to the parish councils, or in cases where the parish, at the passing of the Act, was partly rural and partly urban, to the parish council and urban district council, to be exercised by a joint committee appointed by such councils. The appointment and powers of such joint committees are now regulated by the Local Government (Joint Committees) Act, 1897 (60 & 61 Vict. c. 40). This Act is, however, by sect. 2, to be construed as one with the Local Government Act, 1894, and by sect. 7 (6) of that Act, nothing in that Act is to alter the incidence of charge of any rate levied to defray expenses incurred under (*inter alia*) the Burial Acts.

rate or common rate, so far as the same affects the district in respect of which such payments are required, or by separate rates to be made from time to time on such district; and for levying such additions or separate rates as aforesaid such overseers or other persons shall have the powers, remedies, and privileges, and proceed in the same manner, as in the case of the rates for the relief of the poor: Provided, that any such rates may (notwithstanding any restriction in relation to the parish rate or common rate) be made and levied at such times as may be necessary to provide for the payments aforesaid. Sect. 13.

* * * * *

XV. No land already or to be hereafter purchased or acquired, under the provisions of any of the Acts herein-before recited, for the purpose of a burial ground (with or without any building erected or to be erected thereon), shall while used for such purposes be assessed to any county, parochial, or other local rates at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such purchase or acquisition. Assessment of lands purchased and used for burial grounds.

* * * * *

XVIII. In every case in which any Order in Council has been or shall hereafter be issued for the discontinuance of Burial board to keep in order closed burial grounds, &c.

This section does not apply to cemeteries made by companies, &c., which are rated on their annual value. (See *Reg.* v. *St. Mary Abbott's, Kensington*, 12 A. & E. 824; 10 L. J. M. C. 25; *Reg.* v. *Abney Park Cemetery Co.*, L. R. 8 Q. B. 515; 42 L. J. M. C. 124; 29 L. T. (N. S.) 174.) Sect. 15. Note.

Burial grounds may be closed by Order in Council in the metropolis under the Burial Act, 1852 (15 & 16 Vict. c. 85), s. 2, and elsewhere under the Burial Act, 1853 (16 & 17 Vict. c. 134), s. 1. Sect. 18. Note.

The provisions of this section apply only to parochial burial grounds which have been closed by Order in Council, and not to private burial grounds (*Reg.* v. *St. John, Westgate, and Elswick Burial Board*, 2 B. & S. 703; 31 L. J. Q. B. 15, 205; 10 W. R. 77, 606; 6 L. T. (N. S.) 504).

If the burial ground that is closed is a churchyard, the churchwardens are the persons bound to keep it in repair; if it is a burial ground provided by a burial board then the onus lies upon the burial board (*Reg.* v. *Bishopwearmouth*, 5 Q. B. D. 67).

If a burial ground, situate in a different parish from that for which it is the burial ground, be closed by Order in Council, the persons ultimately liable to pay for its repair are the ratepayers of the parish in which it is situate, not those of the parish to which the burial ground belongs (*Id.*).

It should be noticed that an additional burial ground procured by a parish with consent of the Ecclesiastical Commissioners under

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burials in any churchyard or burial ground, the burial board or churchwardens, as the case may be, shall maintain such churchyard or burial ground of any parish in decent order, and also do the necessary repair of the walls and other fences thereof; and the costs and expenses shall be repaid by the

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Note.

3 Geo. 4, c. 72, s. 26, is by that section declared to be part of the parish for which it is procured though not situate within its bounds. And 8 & 9 Vict. c. 70, s. 14, provides that the commissioners may make a similar declaration with respect to any burial ground acquired under 59 Geo. 3, c. 134, ss. 36, 37.

By 59 Geo. 3, c. 134, s. 39, the Ecclesiastical Commissioners are empowered to alter, repair, pull down, and rebuild, or order or direct to be altered, repaired, pulled down, and rebuilt, the walls and fences of any existing churchyard or burial ground of any parish or chapelry, and to fence off any additional or new burial ground provided under that Act; and with the consent of the justices to stop up or alter any entrance to or path through any churchyard or burial ground.

By 24 & 25 Vict. c. 61, s. 21, re-enacted in Part III. of schedule (V.) of the Public Health Act, 1875, any urban authority constituted a burial board may from time to time repair and uphold the fences surrounding any burial ground which has been discontinued as such within their jurisdiction, or take down such fences and substitute others in lieu thereof, and shall from time to time take the necessary steps for preventing the desecration of such burial ground and placing it in a proper sanitary condition; and may from time to time pass bye-laws (subject to the provisions of that Act) for the preservation and regulation of all burial grounds within their jurisdiction; and the expense of carrying such section into execution may be defrayed out of any rates authorized to be levied by any urban authority constituted a burial board.

The vestry of St. Mary's, Islington, passed a resolution to the effect that certain churchyards and a burial ground, attached to a chapel-of-ease, in the parish which had been closed by Order in Council, should be maintained, and the walls repaired by the churchwardens, and that the expenses incurred by them in so doing should be paid to them by the vestry out of the poor rate. Subsequently the vestry sanctioned extensive alterations to the walls of the burial ground, which had been laid out as a recreation ground, and the senior churchwarden, acting upon such sanction, obtained tenders for the work, and entered into contracts, by which he made himself liable for the costs of the alterations. Before the contracts were actually signed, or any money paid under them by the churchwardens, he sent to the vestry a letter or precept asking for payment of a sum of money not less than the amount for which he had made himself liable under the contracts. *Held* that the vestry was bound to pay the churchwarden the amount of the expenses for which he, acting under their authority, had rendered himself liable, although not actually paid by him; and, also, that a letter or precept written by the churchwarden stating the sum required was a sufficient certificate within the meaning of this section (*Reg.* v. *St. Mary, Islington*, 25 Q. B. D. 523; 59 L. J. Q. B. 462; 63 L. T. 226; 39 W. R. 10). Apparently the vestry in this case were, under a local act, overseers of the parish.

overseers, upon the certificate of the burial board or churchwardens, as the case may be, out of the rate made for the relief of the poor of the parish or place in which such churchyard or burial ground is situate, unless there shall be some other fund legally chargeable with such costs and expenses. Sect. 18.

* * * * *

XXI. The Burial Act, 1852, the Burial Act, 1853, the Burial Act, 1854, and this Act, shall be read and construed together as one Act. Construction. 15 & 16 Vict. c. 85. 16 & 17 Vict. c. 134. 17 & 18 Vict. c. 87.

METROPOLIS MANAGEMENT AMENDMENT ACT, 1856.

19 & 20 VICT. CHAP. 112.

An Act to amend the Act of the last Session of Parliament, Chapter One hundred and twenty, for the better Local Management of the Metropolis.* [29th July, 1856.]

[Preamble recites the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120).]

[I.] Where at the time of the passing of the said Act the power of making church rates or rates of the nature of church rates in any parish was vested in any open vestry, or in any meeting in the nature of an open vestry meeting, or in any meeting of the parishioners, inhabitants, or ratepayers generally, or of such of the parishioners, inhabitants, or ratepayers as were rated at or above any specified amount or value (whether such vestry or meeting were holden for the parish at large, or for any liberty or other district therein), such power shall not be deemed to have become vested in the vestry constituted in such parish under the said Act, but shall be exercised as if the said Act had not been passed: . . . Continuance of power to make certain church rates. 18 & 19 Vict. c. 120.

II. Nothing in the said Act or this Act shall affect or be deemed to have affected any power of electing or appointing churchwardens or making church rates or other power which at the time of the passing of the said Act was vested in any such open vestry or meeting as aforesaid, or any elected or other vestry, where such vestry or meeting acts exclusively for any district (by whatever denomination distinguished) created for ecclesiastical purposes only. Saving of powers vested in open or elected vestries acting exclusively for ecclesiastical districts.

* The powers and duties of the metropolitan elective vestries and districts are transferred to the borough councils by the London Government Act (62 & 63 Vict. c. 14), s. 4.

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Effect of transfer of powers of vestries under 18 & 19 Vict. c. 120.

III. Save as herein-before otherwise provided, all the duties, powers, and privileges (including such as relate to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor), which might have been performed or exercised by any open or elected or other vestry or any such meeting as aforesaid in any parish, under any local Act or otherwise at the time of the passing of the Metropolis Management Act, 1855, shall be deemed to have become transferred to and vested in the vestry constituted by such last-mentioned Act; except so far as any such duties, powers, or privileges may in the case of a parish included in any districts mentioned in schedule (B.) to the said Act be vested by section ninety thereof in the board of works of such district: Provided, that all duties and powers relating to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor, which at the time of the passing of the said Act were vested in or might be exercised by any guardians, governors, trustees, or commissioners, or any body other than any open or elected or other vestry, or any such meeting as herein-before mentioned, shall continue vested in and be exercised by such guardians, governors, trustees, or commissioners, or other body as aforesaid.

[Sect. 4. *Occupiers may claim to be rated.* Sect. 5. *Compositions not to be disturbed and landlord's liability not to be affected:* Repealed by the S. L. R. Act, 1892.]

[Sect. 6. *Right of occupier so claiming to vote at elections.* Sect. 7. *Payment of church rates not necessary as a qualification.* Sect. 8. *Rental to be determined by column headed "Rateable value":* Repealed by Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.]

Notice of meetings of vestries.

18 & 19 Vict. c. 120.

IX. Every meeting of any vestry constituted by the Metropolis Management Act, 1855, of which and of the special purpose whereof notice is now by law required to be affixed on or near the principal doors of the churches and chapels within the parish, may be convened by transmitting through the post or otherwise notice, signed by the clerk to the vestry, to each vestryman, at his usual or last known place of abode in England, of the place and hour of holding the same, and the special purposes thereof, three days before the day appointed for such meeting, and also by affixing at the same time notice thereof on or near the door of any building where the said meeting is to be holden, and it shall not be necessary that notice of any such meeting shall be further or otherwise signed or published.

18 & 19 Vict. c. 120, s. 144.

X. And whereas doubts are entertained whether the provision in section one hundred and forty-four of the Metropolis Management Act, 1855, authorizing the Metropolitan Board of Works, where it appears to them that further powers are required for

the purpose of any work for the improvement of the metropolis or public benefit of the inhabitants thereof, to make applications to Parliament for that purpose, and providing that the expenses of such application may be defrayed as other expenses of the said Board, extends to authorize applications to Parliament by such Board for powers for providing parks, pleasure grounds, places of recreation, and open spaces, and it is expedient to remove such doubts: The powers given to the said Board to make applications to Parliament, and the provision for the expenses of such application, extend respectively to applications to Parliament for the purpose of providing parks, pleasure grounds, places of recreation, and open spaces, for the improvement of the metropolis or the public benefit of the inhabitants thereof, and to the expenses of all such applications.

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Applications to Parliament for providing parks, &c.

XI. Any district board or vestry may take, by agreement or gift, any land, or any right or easement in or over land, for any estate or interest therein, and on such terms and conditions as they may think fit, for the purpose of such land being either kept as an open space, or being kept and maintained as a pleasure ground, for the public benefit of the inhabitants of the district or parish; but this enactment shall not authorize any expenditure to be defrayed by rates, except for the purpose of enclosing, maintaining, planting, and otherwise improving the same.

District boards and vestries empowered to take lands for open spaces or pleasure grounds.

XII. The Metropolis Management Act, 1855, and this Act shall be construed together as one Act.

Construction.

EXTRA-PAROCHIAL PLACES ACT, 1857.

20 VICT. CHAP. 19.

An Act to provide for the Relief of the Poor in Extra-parochial Places.* [21st March, 1857.]

[*Preamble.*]

[I.] Every place entered separately in the report of the Registrar-General on the last census, which now is or is

Levy of poor rate in extra-parochial places.

* For "Poor Law Board" in this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

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Note.

The census referred to in this section is that taken in the year 1851.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 27, all extra-parochial places for which overseers were not on

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reputed to be extra-parochial, and wherein no rate is levied for the relief of the poor, shall for all the purposes of the assessment of the poor rate, the relief of the poor, the county, police, or borough rate, the burial of the dead, the removal of nuisances, the registration of parliamentary and municipal voters, and the registration of births and deaths, be deemed a parish for such purposes, and shall be designated by the name which is assigned to it in such report; and the justices of the peace having jurisdiction over such place or over the greater part thereof shall appoint overseers of the poor therein; and with respect to any other place being or reputed to be extra-parochial, and wherein no rate is levied for the relief of the poor, such justices may appoint overseers of the poor therein, notwithstanding anything contained in the Poor Law Amendment Act, 1844.

7 & 8 Vict. c. 101.

[Sect. 2. *One overseer only need be appointed for an extra-parochial place:* Repealed by the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 14.]

Overseers in the Inns of Court and Charterhouse.

III. In each of the places termed the Inner Temple, the Middle Temple, and Gray's Inn, the officer for the time being

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Note.

December 25th, 1868, appointed became annexed to the adjoining parish with which they had the largest common boundary.

Sect. 2 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), provides that after the passing of that Act separate overseers should not be appointed for any township or village or other place for which before that Act separate overseers had not lawfully been appointed. See the Divided Parishes and Poor Law Amendment Act (39 & 40 Vict. c. 61), s. 6, for the appointment of overseers for divided parishes.

It has been variously held that the entry of a place in the report of the Registrar-General on the census of 1851 as extra-parochial is conclusive evidence that it was extra-parochial (*Mytton* v. *Thornbury*, 29 L. J. M. C. 109; 6 Jur. (N. S.) 341; 2 L. T. (N. S.) 12; 24 J. P. 180; S. C., *Reg.* v. *Mytton*, 2 E. & E. 557); and that it is not conclusive (*Reg.* v. *Cousins*, 4 B. & S. 849; 33 L. J. M. C. 87; 10 Jur. (N. S.) 722; 28 J. P. 278).

There is a presumption that a cathedral, which might have existed before 1189, and its precincts were from the first extra-parochial (*Brathwaite* v. *Hooke*, 26 J. P. 660).

Where an extra-parochial place contained no inhabitants a warrant of appointment of an overseer for such place was quashed (*Reg.* v. *Knowles*, 31 J. P. 102).

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Note.

So much of this section as applied to Charterhouse is repealed by the S. L. R. Act, 1892.

As to mode of payment of sums assessed upon the Inns of Court see the Metropolis Management Amendment Act, 1862 (25 & 26 Vict. c. 102), s. 12.

The latter part of the section providing that the Inns of Court

acting as the under treasurer of such Inn of Court, . . . shall be the overseer of such place; and in default of any such officer, the justices having jurisdiction in such Inns . . . respectively shall appoint some inhabitant householder therein to be the overseer thereof for the then current year, and thenceforth from year to year so long as the office of under treasurer . . . shall be vacant; . . . Sect. 3.

IV. If the owners and occupiers respectively of the land comprised in any extra-parochial place owning and occupying two-thirds in value at least of such land shall express their desire in writing, signed by such major part, that such place be comprised in or annexed to any parish for the purposes aforesaid, and such parish shall consent thereto, such consent to be expressed by a resolution of the vestry, after due notice, the justices of the peace in quarter sessions assembled, or the recorder of the borough, if such place be situated within a borough subject to the jurisdiction of a recorder, may make an order for the annexation of such place to such parish; and thenceforth the same shall be deemed to be part of the said parish for all such purposes. Annexation of extra-parochial place to adjoining parish.

V. If any such place should be added to any union, the overseer or overseers thereof shall act as the guardian or guardians of such place at the board of guardians of such union until there shall be ratepayers thereof qualified to elect a guardian: Provided that if the Poor Law Board should direct one guardian only to be appointed for any such place, and there shall be two overseers appointed for the same, the overseer first appointed, Overseers may act as guardians until there shal be ratepayers qualified to elect guardians, &c.

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should not be added to any union is repealed by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 43, which enacts that they shall not respectively be added to any union so long as the benchers of the Inner and Middle Temples make due payments to the guardians of the City of London Union, and the benchers of Gray's Inn make due payments to the guardians of the Holborn Union. Sect. 3. Note.

Since the passing of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 27, the provisions of this section have become obsolete. Before 1868 it was held that if the owners and occupiers of the lands in an extra-parochial place did not choose to obtain the annexation of the place to an adjoining parish under this section, the Poor Law Board might add the place as a parish to a poor law union under sect. 32 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76) (*Reg.* v. *Boteler*, 32 L. J. M. C. 91; 8 L. T. (N. S.) 514). Sect. 4. Note.

The Local Government Board may add such place to a union under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 26, 32; or under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66; but the provisions of the section are now practically obsolete. Sect. 5. Note.

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or whose name shall stand first in the warrant of appointment, shall act as such guardian; and in the case of his decease or incapacity during the year of office, the other overseer shall thenceforth act as such guardian: Provided, also, that no such paid overseer as aforesaid shall be authorized to act as a guardian.

Powers, &c. of overseers appointed under this Act.

VI. The overseers or overseer appointed under the authority of this Act shall have all the powers, authorities, privileges, exemptions, and protections which overseers now or hereafter shall possess, and shall be subject to all the obligations, responsibilities, penalties, and consequences which overseers are now or may hereafter be liable to.

Certain places excepted.

VII. Provided, that nothing above contained shall apply to any extra-parochial place in respect whereof there shall be any agreement with any parish as to the liability of such place to contribute to the poor rate of such parish contained in any Act of Parliament.

Extra-parochial places contained in or adjoining districts under local Acts.

VIII. Where there is any extra-parochial place contained in or adjoining to any district comprising any parish or parishes, in which district the relief of the poor is administered under the authority of a local Act, the Poor Law Board may, with the consent of the occupiers and owners of two-thirds in value of the land comprised in such place, and with the consent of the guardians acting in that district, by order direct such place to be added, for the purposes of administration of relief to the poor, to such district, upon such conditions and subject to such provisions and regulations as shall appear to them to be necessary for such purposes.

Publication of banns, &c. in church or chapel in extra-parochial place.

IX. Where any extra-parochial place has belonging to or within it any church or chapel of the Church of England, the bishop of the diocese within which such church or chapel shall be locally situate may, if he think fit, authorize by writing under his hand and seal the publication of banns and the solemnization of marriages by banns or licence in such church or chapel of persons residing within such extra-parochial place; and such written authorization shall be registered in the registry of the diocese.

Keeping of marriage registers in church or chapel where banns may be published, &c.

X. Provided always, that all provisions now in force or which may hereafter be established by law relative to providing and keeping marriage registers in any parish churches shall extend and be construed to extend to any church or chapel in which

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Note.

Since the passing of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 27, the provisions of this section are practically obsolete.

the publication of banns and solemnization of marriages shall be so authorized as aforesaid in the same manner as if the same were a parish church; and everything required by law to be done relative thereto by the churchwardens of any parish church shall be done by the churchwarden or chapelwarden or other officer exercising analogous duties in such church or chapel, or if there shall be no such officer then by such person as shall be appointed in that behalf by the bishop of the diocese. Sect. 10.

XI. The words used in this Act shall be construed in the like manner as in the Poor Law Amendment Act, 1834; and the provisions contained therein, and in the subsequent Acts explaining and extending the same, and not repealed, shall, so far as they shall be consistent herewith, be extended to this Act. Construction. 4 & 5 Will. 4, c. 76.

WORKHOUSE SITES ACT, 1857.

20 & 21 VICT. CHAP. 13.

An Act to facilitate the procuring of Sites for Workhouses in certain Cases. [13th July, 1857.]

[Preamble recited 5 & 6 Will. 4, c. 69, s. 1, and that difficulties had arisen from carrying the provisions of that section into execution where the person who constitutes any ecclesiastical corporation sole is insane.]

[I.] If the guardians of any union or parish, or the managers of any school district, shall be desirous of purchasing or of exchanging for the purposes mentioned in the said Act, or in any Act incorporated therewith or extending or explaining the same, any land or building belonging to any ecclesiastical corporation sole, and the person for the time being entitled to such land or building by virtue of his office shall be found upon a commission issued by the Lord Chancellor intrusted as in the Lunacy Regulation Act, 1853, to be insane, it shall be competent for such guardians or managers to petition the said Lord Chancellor, intrusted as aforesaid, for leave to purchase or exchange any such land or buildings so belonging to such corporation sole; and upon such petition the said Lord Chancellor may make such order as shall seem to him to be proper; and if he shall Acquisition of sites for workhouses when the land belongs to an ecclesiastical corporation sole who has been found insane. 16 & 17 Vict. c. 70.

As to powers of managers of school districts to purchase and hold lands, &c., see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 44, 45. Sect. 1. Note.

The Lunacy Regulation Act, 1853, is repealed by the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 342, and its provisions replaced by those of the latter Act.

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see fit to authorize the sale or exchange of any land or building, the same shall on behalf of such corporation sole be conveyed to or received in exchange from such guardians or managers, as the case may be (with the consent of the ordinary having jurisdiction over such corporation sole, and with such further consents if necessary as are herein-after mentioned), by such person as the said Lord Chancellor shall by order appoint; and the purchase-money or the money to be received for equality of exchange on behalf of such corporation sole shall (except as herein-after mentioned) be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account to the credit of the said corporation sole; and henceforth all proceedings authorized by the second section of the said herein-before first-mentioned Act shall be applicable to such sum of money paid to the account of the said Accountant-General.

Consents to the acquisition and application of purchase-money.

II. Provided nevertheless, that if the said corporation sole shall be the incumbent of any benefice, the consent of the patron of the said benefice shall be necessary to perfect and complete such sale or exchange as aforesaid; and if the said land or building so to be sold or exchanged as aforesaid or any part thereof shall have been purchased by the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy, or have been otherwise appropriated or annexed by or with the consent, concurrence, or direction of the said governors to the said benefice for the augmentation thereof, the consent of the said governors shall be necessary to perfect and complete such sale or exchange as aforesaid; and in either of such cases the said purchase-money, or the money to be received for equality of exchange as aforesaid, shall be paid to the said governors; and the receipt of the treasurer for the time being of the said governors shall be sufficient discharge for the said monies, or for so much thereof as in such receipt shall be expressed to be received; and all the monies to arise from such purchase or exchange as aforesaid shall (subject to any stipulation or agreement which the said governors in their discretion may think proper to make for payment thereout of the costs and expenses of such sale or exchange) be appropriated by the said governors to the particular benefice to which the said land or building comprised in such sale or exchange shall have previously belonged, and shall be applicable and disposable by them, for the benefit and augmentation of such benefice, in such and the same manner, and with such and the same powers of investment and other powers or authorities in all respects according to the rules and regulations of the said governors for the time being, as if the said monies or the stocks or funds which might be purchased therewith were then originally appropriated by the said governors to such benefice out of the general funds and profits of the said governors or otherwise for the benefit and augmentation thereof.

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Application of dividends or annual income of purchase-money until reinvestment thereof in land.

III. Until the said purchase-money or the money so to be paid for equality of exchange as aforesaid shall have been reinvested in the purchase of land, tithes, or other hereditaments for the benefit of the said corporation sole, the interest, dividends, or annual income from time to time accruing thereon shall be applied in like manner as the rents and profits of the land or building so purchased or exchanged would have been applicable, if the same land or building had not been purchased or exchanged; and the said Lord Chancellor may make such order or orders from time to time as may be requisite for the purpose of such application.

Proof of consent of patron.

IV. The consent of the said ordinary, patron, and governors hereby required shall be testified by the said ordinary, patron, and governors respectively executing the deed or other assurance by which the land or building sold or exchanged shall be conveyed or assured; except that in the case of any land or building of copyhold or customary tenure, which shall be conveyed or assured by surrender, such consent shall be testified by any writing under the corporate seal, or the hand and seal, as the case may be, of each of the consenting parties; which writing, if produced to the lord or steward of the manor of which the said land or building shall be holden, shall be a sufficient authority to such lord or steward for accepting from the person so appointed or ordered to convey as aforesaid a surrender of the same land and building; and such writing shall be entered, with the surrender, upon the court rolls of the said manor.

Consent of patron in particular cases.

V. In any case where upon the sale of any such land or building as aforesaid belonging to any benefice the patronage of the said benefice shall be in the Crown, or the advowson and right of patronage of such benefice shall be part of the possessions of the Duchy of Cornwall, or the patron of such benefice shall be a minor, idiot, lunatic, or *feme covert*, the consent required by this Act on the part of the patron of such benefice shall be testified by the execution of such deed or assurance or other writing as aforesaid by such and the same persons as by the Act of Parliament passed in the session holden in the first and second years of the reign of Her present Majesty, chapter twenty-three, intituled "An Act to amend the Law for providing fit houses for the Beneficed Clergy," are in like cases directed or authorized to testify the consent of the patron to the exercise of the several powers given by the said last-mentioned Act, or by certain other Acts therein mentioned or referred to; and in all other cases the consent required by this Act on the part of the patron of any benefice shall be given by the person or persons who would be entitled to present, nominate, or collate to such benefice in case the same were actually vacant at the time of giving such consent.

1 & 2 Vict. c. 23.

Sect. 6.

Interpretation.

VI. In the construction of this Act the word "benefice" shall be taken to extend to and comprise all rectories with cure of souls, vicarages, perpetual curacies, and chapelries, the incumbents of which respectively shall in right thereof be corporations sole.

Incorporation of 7 Will. 4 & 1 Vict. c. 50, and construction.

4 & 5 Will. 4, c. 76, s. 109. 16 & 17 Vict. c. 70.

VII. The provisions of the Act of the first year of the reign of Her present Majesty, chapter fifty, shall be applicable to this Act; and the several terms herein used shall be construed as in the one hundred and ninth section of the Poor Law Amendment Act, 1834, and as in the Act of the sixteenth and seventeenth years of Her present Majesty chapter seventy respectively.

SUMMARY JURISDICTION ACT, 1857.

20 & 21 VICT. CHAP. 43.

An Act to improve the Administration of the Law so far as respects summary Proceedings before Justices of the Peace. [17th August, 1857.]

[This Act is printed here in full for the sake of reference, but the notes are confined to matters relating to the poor law. For a full explanation of the Act, see Gill & Douglas' Summary Jurisdiction Acts (7th edit.), pp. 426 *et seq.*]

[Preamble recited that it was expedient that provision should be made for obtaining the opinion of a superior court on questions of law which arise in the exercise of summary jurisdiction by justices of the peace.]

Interpretation.

[I.] In the interpretation and for the purposes of this Act, the following words shall have the meaning herein-after assigned to them; that is to say,

"Superior Courts of Law" shall for England mean the Supreme Courts of Law at Westminster, and for Ireland the Supreme Courts of Law at Dublin:

"Court of Queen's Bench" shall mean for England the Court of Queen's Bench at Westminster, and for Ireland the Court of Queen's Bench at Dublin.

Justices on application of a party

II. After the hearing and determination by a justice or justices of the peace of any information or complaint, which he

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Sect. 7. Note.

For 16 & 17 Vict. c. 70 now read the Lunacy Act, 1890 (53 Vict. c. 5). (See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 38 (1).)

Sect. 2. Note.

The procedure under this Act is preserved by sect. 33 of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), which

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aggrieved to state a case for the opinion of Superior Court.

or they have power to determine in a summary way by any law now in force or hereafter to be made, either party to the proceeding before the said justice or justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within three days after the same to the said justice or justices, to state and sign a case setting forth the facts and the grounds of such determination, for the opinion thereon of one of the Superior Courts of Law to be named by the party applying; and such party, herein-after called the appellant, shall, within three days after receiving such case, transmit the same to the court named in his application, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given, herein-after called the respondent.

Security and notice to be given by the appellant.

III. The appellant, at the time of making such application, and before a case shall be stated and delivered to him by the

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Note.

section, however, extends its provisions. A case may now be stated under this Act, or the Act of 1879 or both of them. A case cannot, however, be stated under this Act alone unless the determination of the justice be upon an information or complaint (*Garrett* v. *Potts*, L. R. 6 Q. B. 86; 40 L. J. M. C. 1; 23 L. T. (N. S.) 410; *secus*, under 42 & 43 Vict. c. 49, s. 33).

Where a ratepayer had appealed against his assessment, and the justices at special sessions had reduced the assessment subject to a further deduction, if the Queen's Bench should decide in favour of such deduction, and a case was stated under this section so as to raise the point of law as to the deduction, it was held that a case could not be stated under this section in such a matter; and that the appellant could not get rid of his assessment except by appeal to quarter sessions, in which event a case could, by consent, be stated under 12 & 13 Vict. c. 45 (*Wheeler* v. *Burmington*, [1860] 29 L. J. M. C. 175; 2 L. T. (N. S.) 171; 24 J. P. 660).

It was also held in 1862 that as the office of justices in enforcing payment of a poor rate is simply ministerial they could not, upon an application to enforce a rate, state a case upon a point of law going to the validity of the rate (*Ex parte May*, 2 B. & S. 426; 31 L. J. M. C. 161; 26 J. P. 340).

In 1887 it was held that justices sitting to hear an application for the issue of a distress warrant for the recovery of a sewers rate were a court of summary jurisdiction to the extent at all events that they could state a case on a matter of law arising upon the application, and that stating a case was not part of the procedure for the recovery of a rate within the meaning of sect. 10 of the Act of 1884 (*Reg.* v. *London, Lord Mayor, &c., of*, 57 L. T. 491; 52 J. P. 70). And this decision was in 1892 extended to the case of an application for a distress warrant for recovery of a poor rate, so that a case might be stated to raise the question whether the appellant was properly rated as owner (*Fourth City Mutual Building Society* v. *West Ham*, [1892] 1 Q. B. 661; 56 J. P. 440).

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Note.

Sect. 30 of the S. J. Act, 1848, so far as relates to clerks of justices of the peace, is repealed by the Justices' Clerks Act, 1877 (40 & 41 Vict. c. 43), s. 8, which substitutes other provisions.

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justice or justices, shall in every instance enter into a recognizance before such justice or justices, or any one or more of them, or any other justice exercising the same jurisdiction, with or without surety or sureties, and in such sum as to the justice or justices shall seem meet, conditioned to prosecute without delay such appeal, and to submit to the judgment of the Superior Court, and pay such costs as may be awarded by the same; and the appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay to the clerk to the said justice or justices his fees for and in respect of the case and recognizances, and any other fees to which such clerk shall be entitled; which fees, except such as are already provided for by law, shall be according to the schedule to this Act annexed marked (A), until the same shall be ascertained, appointed, and regulated in the manner prescribed by the Summary Jurisdiction Act, 1848, section thirty; and the appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same justice or justices, or, if that is impracticable, before some other justice or justices exercising the same jurisdiction who shall be then sitting, within ten days after the judgment of the Superior Court shall have been given, to abide such judgment, unless the determination appealed against be reversed.

11 & 12 Vict. c. 43, s. 30.

Justices may refuse a case where they think the application frivolous.

IV. If the justice or justices be of opinion that the application is merely frivolous, but not otherwise, he or they may refuse to state a case, and shall, on the request of the appellant, sign and deliver to him a certificate of such refusal: Provided, that the justice or justices shall not refuse to state a case where application for that purpose is made to them by or under the direction of Her Majesty's Attorney-General for England or Ireland, as the case may be.

Where the justices refuse, the Court of Queen's Bench may by rule order a case to be stated.

V. Where the justice or justices shall refuse to state a case as aforesaid, it shall be lawful for the appellant to apply to the Court of Queen's Bench, upon an affidavit of the facts, for a rule calling upon such justice or justices, and also upon the respondent, to show cause why such case should not be stated; and the said court may make the same absolute or discharge it, with or without payment of costs, as to the court shall seem meet; and the justice or justices, upon being served with such rule absolute, shall state a case accordingly, upon the appellant entering into such recognizance as is herein-before provided.

Superior Court to determine the questions on the case.

VI. The court to which a case is transmitted under this Act shall hear and determine the question or questions of law arising thereon, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the justice or justices, with the opinion

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of the court thereon, or may make such other order in relation to the matter, and may make such orders as to costs, as to the court may seem fit; and all such orders shall be final and conclusive on all parties: Provided always, that no justice or justices of the peace, who shall state and deliver a case in pursuance of this Act, shall be liable to any costs in respect or by reason of such appeal against his or their determination.

Case may be sent back for amendment.

VII. The court for the opinion of which a case is stated shall have power, if they think fit, to cause the case to be sent back for amendment; and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

Jurisdiction of judge at chambers.

VIII. The authority and jurisdiction hereby vested in a Superior Court for the opinion of which a case is stated under this Act shall and may (subject to any rules and orders of such court in relation thereto) be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time.

After the decision of Superior Court, justices may issue warrants.

IX. After the decision of the Superior Court in relation to any case stated for their opinion under this Act, the justice or justices in relation to whose determination the case has been stated, or any other justice or justices of the peace exercising the same jurisdiction, shall have the same authority to enforce any conviction or order, which may have been affirmed, amended, or made by such Superior Court, as the justice or justices who originally decided the case would have had to enforce his or their determination if the same had not been appealed against; and no action or proceeding whatsoever shall be commenced or had against the justice or justices for enforcing such conviction or order, by reason of any defect in the same respectively.

Certiorari not to be required for proceedings under this Act.

X. No writ of *certiorari* or other writ shall be required for the removal of any conviction, order, or other determination in relation to which a case is stated under this Act, or otherwise for obtaining the judgment or determination of the Superior Court on such case under this Act.

Rules for proceedings.

XI. The Superior Courts of Law may from time to time and as often as they shall see occasion, make and alter rules and orders to regulate the practice and proceedings in reference to the cases herein-before mentioned.

"Justices" to include a stipendiary magistrate.

XII. The words "justice or justices" in this Act shall include a magistrate of the police courts of the metropolis and any stipendiary magistrate.

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Note.

See now the Crown Office Rules, 1886.

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Recognizances how to be enforced.

XIII. In all cases where the conditions, or any of them, in the said recognizance mentioned, shall not have been complied with, the justice or justices who shall have taken the same, or any other justice or justices, shall certify upon the back of the recognizance in what respect the conditions thereof have not been observed, and transmit the same to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances forfeited at quarter sessions may now by law be enforced; and such certificate shall be deemed sufficient *primâ facie* evidence of the said recognizance having been forfeited: Provided, that where any such recognizances shall have been taken in England before a magistrate of the police courts of the metropolis, or by any stipendiary magistrate, all sums of money in which any person or persons shall be therein bound may, if the said magistrate shall think fit, be levied, upon such recognizance being forfeited, and on non-payment thereof, together with the costs of the proceedings to enforce such payment, in the same manner as a police magistrate of the metropolis is now empowered to recover any penalty, forfeiture, or sum of money, by section forty-five of the Metropolitan Police Courts Act, 1839; and that all and every the provisions and enactments contained in the said section forty-five shall extend to and be applicable to this Act, in as ample a manner as if they had been herein re-enacted and made part of the same.

2 & 3 Vict. c. 71, s. 45.

No appeal to quarter sessions.

XIV. Any person who shall appeal under the provisions of this Act against any determination of a justice or justices of the peace, from which he is by law entitled to appeal to the quarter sessions, shall be taken to have abandoned such last-mentioned right of appeal, finally and conclusively, and to all intents and purposes.

Extent of Act.

XV. This Act shall not extend to Scotland.

Sect. 3.

SCHEDULE (A.).

Fees to be taken by Clerks to Justices.

	s.	*d.*
For drawing case and copy, where the case does not exceed five folios of ninety words each . . .	10	0
Where the case exceeds five folios, then for every additional folio	1	0
For the recognizance to be taken in pursuance of the Act	5	0
For every enlargement or renewal thereof . . .	2	6
For certificate of refusal of case	2	0

Sect. 13. Note.

Sect. 45 of the Metropolitan Police Courts Act, 1839, is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

METROPOLITAN POLICE ACT, 1857.

20 & 21 VICT. CHAP. 64.

An Act . . . to amend the Acts concerning the Metropolitan Police. [25th August, 1857.]

[*Preamble.*]

[Sects. 1—10. Repealed by the Metropolitan Police Act, 1886 (49 & 50 Vict. c. 22).]

The value according to the poor rate of buildings erected since the last county rate valuation to be taken into account for the purposes of the police rate.

XI. [*Recital of* 10 *Geo.* 4, *c.* 44, *s.* 23, *as to mode of assessment for purposes of that Act.*] In computing the full and fair annual value of the property rateable for the relief of the poor within any parish, township, precinct, or place in the Metropolitan Police District, for all the purposes of the said Act of King George the Fourth, and the other Acts relating to the metropolitan police, and this Act, the full and fair annual value on which the last poor's rate has been computed of all houses and other buildings in such parish, township, precinct, or place, which shall have been erected since the last valuation acted upon in assessing the county rate, and which shall have become rateable to the relief of the poor, shall be added to the amount of the annual value of the rateable property in such parish, township, precinct, or place, according to the last valuation for the time being acted upon in assessing the county rate.

Overseers to make returns of new buildings.

XII. The overseers of the poor of every parish, township, precinct, or place within the Metropolitan Police District shall, from time to time so often as may be required by the receiver for the Metropolitan Police District, make and cause to be delivered to the receiver for the Metropolitan Police District a true return in writing under the hands of such overseers, specifying every house or other building which shall have been erected and have become rateable to the relief of the poor in such parish, township, precinct, or place, since the making of the last valuation for the time being acted upon in assessing the county rate, and the annual value of the same.

Sect. 11. Note.

This section and sect. 12 are repealed by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77, so far as they relate to the metropolis as defined by that Act. The Metropolitan Police district, as defined in the Schedule to the Metropolitan Police Act, 1829 (10 Geo. 4, c. 44), contains a larger area than the metropolis as defined by the Valuation (Metropolis) Act, 1869. And these sections therefore remain in force as to that part of the police district which is not included in the metropolis strictly so called.

Sect. 12. Note.

See note to sect. 11, *supra*.

Sect. 13.

Power to receiver for Metropolitan Police District, &c. to inpect poor rates.

XIII. The receiver for the Metropolitan Police District, or any person having an order for that purpose under the hand of such receiver, may inspect any poor rate made or to be made for any parish, township, precinct, or place in the Metropolitan Police District, and take copies of or extracts from any such rate, without payment of any fee or reward.

Penalty on overseers neglecting to make returns, or refusing to produce poor rates.

XIV. If any overseer or overseers refuse or neglect to make any return when so required by the receiver as aforesaid, or if any overseer or person having the custody of any such poor rate as herein mentioned refuse or neglect to permit the receiver or any person hereby authorized to inspect such rate, or to take copies or extracts from the same, within two days after notice in writing, under the hand of such receiver, for that purpose shown to the overseer or person having the custody of such poor rate, or left at his usual place of abode, every overseer or person so offending shall, on conviction thereof before two justices of the peace, or before any police magistrate sitting in a police court of the Metropolitan Police District, forfeit and pay for every such offence the sum of ten pounds.

[Sect. 15. Repealed by 53 & 54 Vict. c. 45, s. 36.]

[Schedules. Repealed by 49 & 50 Vict. c. 22, s. 8.]

THE BURIAL ACT, 1857.

20 & 21 VICT. CHAP. 81.

An Act to amend the Burial Acts.*

[25th August, 1857.]

[Only so much of this Act is included here as relates to the powers of guardians in respect of burials of paupers.]

[Preamble recites 15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134; 17 & 18 Vict. c. 87; 18 & 19 Vict. cc. 78,† 128.]

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Ordinary of diocese may consecrate the whole or part of land belonging to

VI. Where the guardians of any parish or union are or shall hereafter become possessed of any land suitable to the purposes

* For "Poor Law Board" in this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

† By mistake for 18 & 19 Vict. c. 79.

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Note.

As this Act and the recited Acts are by sect. 30, *infra*, to be construed together as one Act, the ground appropriated by the guardians for a burial ground under this section must not be so situated as to be used for burials within 100 yards from any

of a burial ground, and the Poor Law Board shall consent to the same being appropriated to the reception of the dead bodies of any poor persons whom such guardians shall be authorized or required by law to bury, it shall be lawful for the ordinary of the diocese wherein such land shall be situated, if he see fit, to consecrate the whole or a part of such land for burial purposes; and after consecration the guardians may lawfully direct any such dead body as aforesaid to be buried therein; and the land so consecrated shall not thenceforth be used for any other purposes than for burials according to the rites of the United Church of England and Ireland, and shall be kept in decent order; and the fences thereof, and any building or other erection therein or adjoining thereto used for the performance of the burial service, shall be maintained in good repair by the guardians, out of the common fund of such parish or union: Provided, nevertheless, that the guardians shall not be authorized to direct the body of any poor person to be buried in such grounds, who, or whose husband, wife, or next of kin, shall, by letter addressed to the master of the workhouse or otherwise, have expressly desired burial to take place elsewhere.

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any parish for the burial of poor of persons.

* * * * *

XXX. The herein-before recited Acts and this Act shall be construed together as one Act.

Recited Acts and this as one.

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dwelling-house without the written consent required by the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 9.

Sect. 6.

Note.

By the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 2, the guardians of a union may contribute towards the enlargement of any churchyard or consecrated burial ground in the parish wherein the workhouse is situated.

By the Burial Law Amendment Act, 1880 (43 & 44 Vict. c. 41), s. 2, the burial of any poor person may take place in consecrated ground without the rites of the Church of England if the due notice is given as provided by that section.

Guardians are *required* to bury paupers dying in the union house (*Reg.* v. *Stewart*, 12 A. & E. 771; 4 P. & D. 349), and by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 31, they are *authorized* to bury the body of any poor person which may be within their union.

A burial ground provided under this section would seem to be available for the burial of dead bodies which the relieving officer of the union is required to cause to be buried under the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34), s. 10, and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 89.

MEDICAL ACT, 1858.

21 & 22 VICT. CHAP. 90.

An Act to regulate the Qualifications of Practitioners in Medicine and Surgery. [2nd August, 1858.]

[For the details of the registration and qualification of medical practitioners works on the Medical Acts should be consulted: only so much of the Act as may bear upon the poor law is included here.]

[*Preamble.*]

Short title.

[I.] This Act may for all purposes be cited as "The Medical Act."

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Register to be published.

XXVII. The registrar of the general council shall in every year cause to be printed, published, and sold, under the direction of such council, a correct register of the names in alphabetical order according to the surnames, with the respective residences, in the form set forth in schedule (D.) to this Act, or to the like effect, and medical titles, diplomas, and qualifications conferred by any corporation or University, or by doctorate of the Archbishop of Canterbury, with the dates thereof, of all persons appearing on the general register as existing on the first day of January in every year; and such register shall be called "The Medical Register"; and a copy

Evidence of registration.

of the medical register for the time being, purporting to be so printed and published as aforesaid, shall be evidence in all courts and before all justices of the peace and others that the persons therein specified are registered according to the provisions of this Act; and the absence of the name of any person from such copy shall be evidence, until the contrary be made to appear, that such person is not registered according to the provisions of this Act: Provided always, that in the case of any person whose name does not appear in such copy, a certified copy, under the hand of the registrar of the general council or of any branch council, of the entry of the name of such person on the general or local register shall be evidence that such person is registered under the provisions of this Act.

* * * * *

Meaning of terms "legally qualified medical practitioner," &c.

XXXIV. The word "legally qualified medical practitioner" or "duly qualified medical practitioner," or any words importing a person recognized by law as a medical practitioner or member of the medical profession, when used in any Act of Parliament, shall be construed to mean a person registered under this Act.

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Registered persons exempted from serving on juries, &c.

XXXV. Every person who shall here gistered under the provisions of this Act shall be exempt, if he shall so desire, from serving on all juries and inquests whatsoever, and from serving all corporate, parochial, ward, hundred, and township offices, and from serving in the militia; and the name of such person shall not be returned in any list of persons liable to serve in the militia, or in any such office as aforesaid.

Unregistered persons not to hold certain appointments.

XXXVI. No person shall hold any appointment as a physician, surgeon, or other medical officer either in the military or naval service, or in emigrant or other vessels, or in any hospital, infirmary, dispensary, or lying-in hospital, not supported wholly by voluntary contributions, or in any lunatic asylum, gaol, penitentiary, house of correction, house of industry, parochial or union workhouse or poorhouse, parish union, or other public establishment, body, or institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a medical officer of health,

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Note.

The Passengers Act, 1855 (18 & 19 Vict. c. 119), is repealed by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 745, and schedule 22.

By the Gen. Cons. Ord., July 24th, 1847, art. 153, the guardians shall appoint a medical officer for the workhouse and a district medical officer.

By a Gen. Ord., December 10th, 1859: "No person shall be qualified to be appointed to the office of medical officer under any of the orders above referred to, unless he shall be registered as aforesaid, and shall be qualified by law to practise both medicine and surgery in England and Wales, such qualification being established by the production to the board of guardians of a diploma, certificate of a degree, licence or other instrument granted or issued by competent legal authority in Great Britain or Ireland, testifying to the medical or surgical, or medical and surgical, qualification or qualifications of the candidate for such office. But nothing herein contained shall apply to the regulations contained in the General Order, May 25th, 1857, which relate to the appointment or employment in special cases of persons not fully qualified."

The regulations referred to in the Gen. Ord., May 25th, 1857, are:—

"Art. 3. If a medical officer not fully qualified, or not resident within his district at the time of his appointment or within two months thereof, shall afterwards complete his qualification or become resident within such district, as the case may be, the guardians may, upon such completion of his qualification or becoming resident respectively, after giving such notice as would be necessary in respect of an appointment in case the office were vacant pass a resolution empowering such medical officer to hold his office for the time specified in art. 2, and if they transmit a copy of such resolution to the Local Government Board, and if that board consent, such officer, being so duly qualified and resident, shall be entitled henceforth to hold such office accordingly."

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unless he be registered under this Act: Provided, always, that nothing in this Act contained shall extend to repeal or alter any of the provisions of the Passengers Act, 1855.

18 & 19 Vict. c. 119.

No certificate to be valid unless person signing be registered.

XXXVII. No certificate required by any Act now in force, or that may hereafter be passed, from any physician, surgeon, licentiate in medicine and surgery, or other medical practitioner, shall be valid, unless the person signing the same be registered under this Act.

* * * * *

POOR LAW (PAYMENT OF DEBTS) ACT, 1859.

22 & 23 VICT. CHAP. 49.

An Act to provide for the Payment of Debts incurred by Boards of Guardians in Unions and Parishes and Boards of Management in School Districts.* [13th August, 1859.]

[Preamble declared that "it is expedient to define and limit the period during which any debt hereafter incurred by guardians of unions or parishes, or by district boards of management in the administration of the laws for the relief of the poor may be paid."]

When debts in future are to be paid.

[I.] With respect to any debt, claim, or demand which may be lawfully incurred by or become due from the guardians of any

* For "Poor Law Commissioners" and "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Note.

By the Gen. Ord. for Accounts (Unions), January 14th, 1867, art. 27, all accounts of a union are to be closed "at the end of every half-year, that is to say, up to the 25th day of March and the 29th day of December in each year, inclusively, when such days occur at the end of the week established by the practice of the union, and at other times at the end of such week first completed next after such days respectively."

For the payment of debts by overseers, see the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), ss. 1, 2.

"This enactment is not in the nature of a Statute of Limitations. It is a fetter on the action of the guardians, a prohibition against payment after a certain date" (*Midland Rail. Co.* v. *Edmonton Guardians*, [1895] A. C. 485; 64 L. J. Q. B. 710; 72 L. T. 811; 60 J. P. 68; *per* Lord Herschell, L.C.).

Where on an appeal to quarter sessions, costs are ordered to be paid by the guardians, no debt, claim, or demand in respect of such costs is incurred or becomes due before the taxation of such costs, and the time limited by the above section within which such debt or claim may be paid, begins to run from the date of such taxation, and not from the date of the order of quarter sessions

union or parish, or the board of management of any school or asylum district, such debt, claim, or demand shall be paid within the half-year in which the same shall have been incurred or become due, or within three months after the expiration of such half-year, but not afterwards; the commencement of such half-year to be reckoned from the time when the last half-year's account shall or ought to have been closed according to the order of the Poor Law Commissioners or Poor Law Board: Provided, that the Poor Law Board, by their order, may, if they see fit, extend the time within which such payment shall be made for a period not exceeding twelve months after the date of such debt, claim, or demand.

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Power to the Poor Law Board to extend the time.

[Sect. 2. *As to payment of debts incurred before the passing of this Act:* Repealed by the S. L. R. Act, 1875.]

III. Where any sum shall have been or shall be borrowed by any guardians or managers, and the debt shall have been or shall be charged by the said guardians upon the poor rates, under the authority of any statute, and the same shall be

Time for payment of debts charged on the rates.

Sect. 1. Note.

(*Midland Rail. Co.* v. *Edmonton Guardians, supra*). So also, where costs are awarded against guardians by the House of Lords in respect of an appeal to that House, the debt or claim is only incurred or becomes due upon the amount being certified by the clerk of the Parliaments, under the Standing Orders of the House, and the time limited for payment begins to run from the date of such certificate, and not from the date of the order (*West Ham Union* v. *St. Matthew, Bethnal Green*, [1896] A. C. 477; 65 L. J. M. C. 201; 75 L. T. 286; 60 J. P. 740).

And so, where an order was made by the Court of Appeal against guardians for the payment of costs, the time limited for payment was held to begin from the date of the allocatur on taxation, and not from the date of the judgment of the court (*Manchester, Sheffield and Lincolnshire Rail. Co.* v. *Doncaster Guardians*, [1897] 1 Q. B. 117; 66 L. J. Q. B. 75; 75 L. T. 472; 45 W. R. 82; 60 J. P. 819).

A creditor of the guardians cannot recover in an action commenced after the expiration of the half-year and the three months, and before any extension of the time by the Local Government Board, although within the period during which the board has power to extend the time. And *semble*, that judgment for the defendants in such an action would not be a bar to a fresh action, if the board should afterwards extend the time (*Baker* v. *Billericay*, 33 L. J. M. C. 40; 2 H. & C. 642; 9 Jur. (N. S.) 1201; 9 L. T. (N. S.) 486; 28 J. P. 24).

Each weekly sum ordered by justices to be paid by guardians for the maintenance of a lunatic under the Lunacy Act is a debt, claim, or demand, within this section, and payment cannot be enforced by *mandamus* after the period of limitation (*Reg.* v. *Stepney*, L. R. 9 Q. B. 383; 42 L. J. M. C. 145; *Castle* v. *Fulham*, 37 J. P. 56).

This section was held not to be applicable to debts contracted by guardians in their capacity of a rural sanitary authority (*Dearle* v. *Petersfield Union*, 21 Q. B. D. 447; 57 L. J. Q. B. 640; 60 L. T. 85; 37 W. R. 113; 53 J. P. 102).

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made payable on a day certain, the time of limitation prescribed by this Act for payment of debts shall commence on that day; where it shall not have been made payable on any day certain, then on the expiration of twelve months from the day when the money was advanced; and in the case of any debt repayable by instalments, each instalment shall be payable within one year next after the day when the same shall fall due; unless the said board shall in any of the cases provided for in this section allow an extension of time for the payment not exceeding six months; and the interest payable in every case hereby provided for shall be payable within the like times only as the principal.

Provision for judgments recovered in actions against guardians or managers.

IV. If any person claiming any debt or demand shall have commenced or shall hereafter commence proceedings in any court of law or equity, or before any justice or other competent authority, within the time herein-before limited, or within the time to which the Poor Law Board may grant extension, and shall with due diligence prosecute such proceedings to judgment or other final settlement of the question, such judgment shall be satisfied by the guardians or managers against whom or against whose officer the same may be brought, notwithstanding

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Note.

Where on an appeal to quarter sessions, guardians were ordered to pay the costs of the appellants, the appellants within the three months limited by sect. 1, *supra*, applied to the clerk of the peace to tax the costs. The costs were taxed after the expiration of the three months, and no proceedings to enforce payment of the taxed amount were commenced by the appellants within the three months after the expiration of the half-year in which the costs were taxed. It was held that the application to tax was not "a commencement of proceedings" within the meaning of the above sect. 4, and that the appellants could not recover the costs (*Midland Rail. Co.* v. *Edmonton Guardians*, [1895] A. C. 485; 64 L. J. Q. B. 710; 72 L. T. 811; 60 J. P. 68).

Whether or not a creditor exercises "due diligence" in prosecuting proceedings is a question which must be decided on the circumstances of each case. The following is given by way of example only: An action was brought by an engineer, within the time limited by sect. 1 of this Act, against the defendant board of guardians for services rendered. After issue joined the plaintiff took out a summons to refer the matter to arbitration. This summons was opposed by the defendants and dismissed. The plaintiff then allowed two assizes at Leeds (where the action was to be tried) to pass without giving notice of trial. The defendants then took out a summons to dismiss the action for want of prosecution, after which the plaintiff gave notice of trial for the assizes then coming on. At the trial the action was by consent ordered to be referred to an arbitrator, who found for the plaintiff for a certain sum. In an action for a *mandamus* to the defendants to levy a rate to satisfy the award, held that in the circumstances the plaintiff had not failed to prosecute the proceedings with "due diligence" and was therefore entitled to succeed in the action (*Rhodes* v. *Pateley Bridge Guardians*, 51 L. T. 235; 48 J. P. 168).

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that such judgment may be recovered or such final settlement arrived at after the expiration of the period herein-before provided; and all proceedings taken by *mandamus* or otherwise for the enforcing of such judgment without delay shall be deemed to be within the operation of this section.

Payment of attorney's bills, when to be made.

V. Where the guardians or managers shall be engaged in a suit, action, or proceedings in any court, they shall not be required by any rule of law or provision herein contained to pay the bill of costs of any solicitor or attorney retained by them for the purpose thereof, until the final determination of such suit or proceeding, or until he shall cease to be so retained by or for them therein; but the bill of costs of such solicitor or attorney shall be duly taxed and paid within the term of one year next after such final determination of the said suit, proceeding, or retainer, and not afterwards, unless the Poor Law Board shall authorize an extension of time not exceeding six months; provided, that if the said solicitor or attorney take proceedings for the recovery of his bill within such time or the extension thereof, he shall in such case have the same right to be paid as in section four; provided also that nothing herein contained shall prevent the guardians or managers from paying money at any time on account of the suit or proceeding.

Calls or orders to provide for debts payable under this Act to be legal, &c.

VI. No call or order for contribution made by any guardians, nor any poor rate made to meet such call or order, shall be deemed to be illegal on the ground that the same is made to

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For the payment of bills of costs by overseers, see the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 2.

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Note.

Before the passing of this Act a contribution order was made by the guardians of the London Unions pursuant to art. 82 of the Gen. Cons. Order, 1847, but the clerk in preparing it disregarded the terms of art. 81, inasmuch as, in computing the sum for which the parish of St. M. B. was to be ordered to contribute to the expenses of the union, he omitted to estimate "the probable balance due to that parish"; for if he had taken that balance into account, it was so largely in its favour that no sum whatever would have been needed to meet the cost of the maintenance of its poor, &c. The reason for the omission was that the balances in favour of that and several other parishes in the hands of the treasurer of the union had been fraudulently appropriated by an officer of the union who was employed to collect the rates for certain of the parishes forming the union of which the parish of St. M. B. was one. The court held that the contribution order was invalid and illegal (*Hall* v. *City of London Union*, 6 C. B. (N. S.) 863; 29 L. J. M. C. 5; 6 Jur. (N. S.) 74).

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Note.

A similar case occurred about the same time (1858). Through the fraud and embezzlement of the collector and assistant clerk of the union, there were many debts outstanding from the union to tradesmen and to their treasurer, and a contribution order was made by the guardians on each of the parishes in the union, to cover the deficit resulting from these frauds, such deficit being treated as an

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provide for any debt, claim or demand, the payment whereof is authorized by this Act, or on the ground that the said call or order for contribution includes a balance due from any parish or parishes at the time when the half-yearly accounts are made up and balanced as aforesaid: Provided always, that when the fund out of which any such debt, claim or demand should have been discharged shall have been already paid by any parish to the board of guardians of any union, and shall not have been applied for that purpose, any funds which may be required to be again contributed to discharge such debt, claim, or demand, shall be levied on each parish in the union in proportion to the rateable value of each such parish.

Interpretation.

4 & 5 Will. 4, c. 76.

VII. The words used in this Act shall be construed in like manner as the same words are directed to be construed by the Poor Law Amendment Act, 1834, or any subsequent Act amending or explaining the same.

Sect. 6. Note.

"extraordinary charge" under art. 81 of the Gen. Cons. Order, 1847 (since rescinded and replaced by art. 1 of Gen. Ord., February 26th, 1866), but it was held that the guardians had no power to make a retrospective order, nor the overseers to make a retrospective poor rate, and that the whole proceedings of the guardians were void (*Waddington* v. *City of London Union*, 1 E. B. & E. 370; 28 L. J. M. C. 113; 32 L. T. 225; 5 Jur. (N. S.) 242; 22 J. P. 755).

It was in consequence of these decisions that this section was enacted; and in the year 1860, after the passing of this Act, the guardians of the London Union made an order upon one of the parishes comprised therein for payment of a sum which included a balance due from the parish at the preceding half year, which balance comprised balances carried forward for several half-years past. It was held that this section applied, and that the order was valid (*City of London Union* v. *Acocks*, 8 C. B. (N. S.) 760; 8 W. R. 608; 24 J. P. 502).

A contribution order made by the guardians of a union in respect of expenses for the relief of the poor in 1889 included arrears accrued due from the parish in 1886. Such arrears had not been inserted in any contribution order between 1886 and 1889. *Held* that the order was valid under this section (*Caistor Union* v. *North Kelsey Overseers*, 59 L. J. M. C. 102; 62 L. T. 731).

A rate made to meet a balance of sanitary expenses, incurred under the Public Health Acts, which had been carried forward from audit to audit for several years, was held to be bad on the ground that it was retrospective (*Saul* v. *Wigton Rural Sanitary Authority*, [1887] 56 L. T. 438; 35 W. R. 352). Although the decision in that particular case was doubtless correct, the statement in the judgment of Denman, J., that "the principle that a retrospective rate is bad is as applicable to the case of sanitary rates as to poor rates," conveys the false impression that a poor rate cannot be retrospective; whereas in the above-mentioned case of *Caistor Union* v. *North Kelsey*, following *City of London Union* v. *Acocks*, it was expressly held that a poor rate may be retrospective if it complies with the requirements of this section, and on that ground was distinguishable from a sanitary rate.

LOCAL TAXATION RETURNS ACT, 1860.

23 & 24 VICT. CHAP. 51.

An Act to provide for an annual Return of Rates, Taxes, Tolls, and Dues levied for Local Purposes in England.

[23rd July, 1860.]

[This Act is repealed so far as it relates to the receipts and expenditure of a borough by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 5. As to the returns to be made in such boroughs see sect. 28 of that Act. This Act is amended by the Local Taxation Returns Act, 1877 (40 & 41 Vict. c. 66).]

[*Preamble.*]

Clerks of bodies empowered to levy rates, &c. to make annual returns to the Secretary of State.

[I.] The clerk to any corporation, justices, commissioners, district or other board, vestry, inspectors, trustees, or other body or persons authorized to levy or to order to be levied any of the rates, taxes, tolls, or dues mentioned in the schedule to this Act, or any other compulsory rates, taxes, tolls, or dues in England (other than such as are levied for the public revenue of the United Kingdom), shall make a return of the sums levied or received by or in respect of such rates, taxes, tolls, and dues, and of the expenditure thereof, to *one of Her Majesty's principal Secretaries of State* . . . in every year; . . .

Contents of returns.

II. Such returns . . . shall show the amounts levied and expended respectively, with such other particulars and in

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Sect. 1. Note.

The words omitted from this section are repealed by the S. L. R. Act, 1875.

By the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), s. 2, the powers and duties vested in or imposed on the Secretary of State under this Act are transferred to the Local Government Board. By the Local Taxation Returns Act, 1877 (40 & 41 Vict. c. 66), s. 1, the returns are required to be made to the Local Government Board and not to a Secretary of State.

By the Highway Accounts Returns Act, 1879 (42 & 43 Vict. c. 39), s. 2, this Act is to apply to returns of rates, receipts and expenditure as regards highways, as though the same had been specifically mentioned in this Act.

The annual return must now be made for the year ending March 31st, which is the end of the local financial year appointed by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 73. The return may be dispensed with when the accounts are audited by a district auditor. (See District Auditors Act, 1879 (42 Vict. c. 6), s. 3.)

Sect. 2. Note.

For "Secretary of State" now read Local Government Board. (See note to sect. 1, *supra*.) The words omitted from the section are repealed by the S. L. R. Act, 1892.

Sect. 2. such form as shall from time to time be ordered by such *Secretary of State*.

Who are to make returns in certain cases.

III. . . . where any such rates, taxes, tolls, or dues are levied and expended or to be accounted for by churchwardens, chapelwardens, or any officers or persons not authorized to act as a board, such returns as herein-before mentioned in respect of such rates, taxes, tolls, or dues, and the expenditure thereof, shall be made by such churchwardens, chapelwardens, or other officers or persons; and they shall be severally liable in respect of any neglect to make the same.

Penalty for default.

IV. Any . . . churchwarden, officer, or other person required as aforesaid to make such return, who neglects so to do in the month of *June* in any year, shall be liable to a penalty not exceeding twenty pounds for every such offence, to be recoverable on summary conviction thereof before two justices.

Saving for cases where returns are already required.

V. Where any annual return is now by law required to be made to the *Secretary of State*, or to any public department, under any Act of Parliament, this Act shall not render necessary any further or other return in respect of the same matters: Provided always, that the said *Secretary of State* may, by his order published in the *London Gazette*, direct that all or any of such returns now required as aforesaid shall in future be made under this Act, and shall be subject to the provisions and penalties thereof.

Abstracts of returns to be laid before Parliament.

VI. The said *Secretary of State* shall every year cause the returns transmitted to him under this Act to be abstracted, and the abstract thereof to be laid before both Houses of Parliament.

Sect. 3. Note.

The words omitted from this section are repealed by the S. L. R. Act, 1892.

By the Local Taxation Returns Act, 1877 (40 & 41 Vict. c. 66), s. 2, the returns are to be made by the clerk to the authority required to make returns, and the penalty of 20*l.* may be recovered by action.

Sect. 4. Note.

The words omitted from this section are repealed by the S. L. R. Act, 1892. Instead of the month of "June" see the various times specified in 40 & 41 Vict. c. 66, s. 1. The penalty may be recovered by action in the High Court. (See sect. 2 of that Act.)

Sect. 5. Note.

For "Secretary of State" now read "Local Government Board." (See note to sect. 1, *supra*.)

Sect. 6. Note.

For "Secretary of State" now read "Local Government Board." (See note to sect. 1, *supra*.)

Sect. 7.

VII. This Act shall not extend to the rates levied for the relief of the poor, or the expenditure thereof; but the returns thereof shall continue to be made to the Poor Law Board, as by the orders of such Board shall from time to time be directed.

Poor rate returns to be made to Poor Law Board as heretofore.

VIII. This Act shall not extend to any tolls or dues taken by any railway, canal, or joint stock company as profits of their undertaking, or to any tolls or dues taken by prescription or otherwise as private property.

Saving for companies and private rights of toll, &c.

SCHEDULE.

Sect. 1.

Church rates and chapel rates, whether made by the common law or under the Church Building Acts, or under any other Act of Parliament.

Sewers rates and "general sewers tax," and all rates, scots, and taxes levied by courts or commissioners of sewers; whether levied under the Acts of the 3 & 4 Will. 4, c. 22, and 4 & 5 Vict. c. 45, or under any other Act of Parliament, or by charter, usage, or custom.

Rates under the Act for the lighting and watching of parishes, 3 & 4 Will. 4, c. 90.

Rates levied by improvement commissioners or other commissioners, or by any trustees or corporation acting under any local Act for the paving, draining, cleansing, or watching, improvement or regulation of any town or district.

Rates levied by or under the order of any vestry or district board, under the Metropolis Management Act, 1855. 18 & 19 Vict. c. 120.

Tolls and dues levied under the authority of Parliament in respect of markets, bridges, or harbours.

Sect. 7. Note.

For "Poor Law Board" now read "Local Government Board" (34 & 35 Vict. c. 70).

Schedule. Note.

For the abolition of compulsory church rates, see the Compulsory Church Rate Abolition Act, 1868 (31 & 32 Vict. c. 109), s. 3.

DEFENCE ACT, 1860.

23 & 24 VICT. CHAP. 112.

An Act to make better Provision for acquiring Lands for the Defence of the Realm. [28th August, 1860.]

[*Preamble.*]

[The object of this Act is to enable the Secretary of State to acquire or keep free from buildings such lands as may be required for purposes of national defence. Only so much of the Act is included here as relates to the rateability of such lands.]

* * * * *

Lands to continue subject to tithe rent-charge, taxes, and rates.

XXXIII. The lands vested in the said Secretary of State in pursuance of this Act, which were before the time of such vesting liable to and charged with tithes or tithe rent-charge, land tax, poor or other rates, shall continue chargeable therewith, but shall not be assessed to any tax or rate at a higher value or rent than that at which such lands were assessed at the time of such vesting.

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Interpretation of terms.

XLVII. In the construction of this Act the style or title "Her Majesty's principal Secretary of State for the War Department" shall mean Her Majesty's principal Secretary of State for the time being to whom Her Majesty shall think fit to intrust the seals of the War Department; and the following words and expressions shall in this Act and the Defence Act, 1842, have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

5 & 6 Vict. c. 94.

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure.

* * * * *

Short title.

XLVIII. . . . this Act may be cited as "The Defence Act, 1860."

POOR REMOVAL ACT, 1861.

24 & 25 VICT. CHAP. 55.

An Act to amend the Laws regarding the Removal of the Poor and the Contribution of Parishes to the Common Fund in Unions. [1st August, 1861.]

[Preamble recited that it was advisable to amend the laws relating to the removal of the poor.]

[I.] The period of *three years* shall be substituted for that of five years specified in the first section of the Poor Removal Act, 1846; and the residence of a person in any part of a union shall have the same effect in reference to the provisions of the said section as a residence in any parish.

Alteration in provisions of 9 & 10 Vict. c. 66, s. 1.

Sect. 1.

Note.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 8, the period of "one year" is substituted for that of "three years" specified in this section.

A pauper, having resided more than three years in the parish of his settlement, went to reside in another parish in the same union, and on his becoming chargeable after a residence there of a few months, an order was made to remove him to his parish of settlement: it was held that the order was rightly made, as the pauper had not become irremovable under this section and 9 & 10 Vict. c. 66, s. 1, by reason of his residence in his parish of settlement, though in the same union as the other parish (*Reg.* v. *Great Salkeld*, 33 L. J. M. C. 185).

In order to remove the effect of this decision the Poor Removal Act, 1864 (27 & 28 Vict. c. 105), was passed, which provided that residence in the parish of settlement is not to be excluded in the computation of the period of residence requisite to acquire a status of irremovability.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 109, "union" is to be construed to include any number of parishes incorporated for the relief or maintenance of the poor under any local Act. By a local Act certain townships, each separately maintaining its own poor, and several parishes were incorporated into a united district for the purpose of maintaining a house of industry for the poor of the whole district under a board of directors. Each parish or township had the separate care of, and paid for the maintenance of, its own poor in the house, under the management of the directors; but each contributed according to a fixed proportion to the general costs of the maintenance of the house. *Held* that the united district was a union within the meaning of 4 & 5 Will. 4, c. 76, s. 109, and 24 & 25 Vict. c. 55, s. 1, and that an aggregate residence of one year in two of the townships rendered a pauper irremovable under 28 & 29 Vict. c. 79, s. 8 (*Machynlleth Union* v. *Pool*, L. R. 4 Q. B. 592; 10 B. & S. 653; 38 L. J. M. C. 148; 20 L. T. (N. S.) 951; 17 W. R. 1016; 34 J. P. 197).

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 34, the irremovability of a poor person is not to be affected by the addition of a parish to the union in which he resides, or by the separation of a parish therefrom.

Sect. 2.

Provision for orphan children under sixteen years of age.

II. Where a child under the age of sixteen years, residing with its surviving parent, shall be left an orphan, and such parent shall at the time of death have acquired an exemption from removal by reason of a continued residence, such orphan shall, if not otherwise irremovable, be exempt from removal in like manner and to the same extent as if it had then acquired for itself an exemption from removal by residence.

Provision for deserted wives.

III. Where a married woman shall have been or shall be deserted by her husband, and shall after his desertion reside for

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Sect. 3.

Note.

By the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 17, "one year" is to be substituted for "three years" in this section.

What constitutes desertion.

The question whether a wife is "deserted" is a question of fact for the justices in each case (*Reg.* v. *Davidson*, or *Reg.* v. *Durham JJ.*, 5 T. L. R. 199; *In re Duckworth*, 5 T. L. R. 609). If cohabitation has ceased, whether by the adverse act of husband or wife, or even by the mutual consent of both, "desertion" becomes impossible to either, at least until their common life and home have been resumed. The refusal by either at the request of the other to resume conjugal relations does not in itself constitute desertion (*Fitzgerald* v. *Fitzgerald*, L. R. 1 P. & D. 694; 38 L. J. P. & M. 14; *Pape* v. *Pape*, 20 Q. B. D. 66; 57 L. J. M. C. 3; 58 L. T. 399; 36 W. R. 125; 52 J. P. 181; *Reg.* v. *Leresche*, [1891] 2 Q. B. 418; 60 L. J. M. C. 153; 65 L. T. 602; 40 W. R. 7; 56 J. P. 37). There need not necessarily, however, be actual cohabitation under the same roof; there may be sufficient cohabitation where the parties are in fact living apart, as in the case of married persons in domestic service (*Bradshaw* v. *Bradshaw*, [1897] P. 24). In that case a married female domestic servant, who never lived with her husband under the same roof, was visited by him from time to time at the house of her mistress, with the result that a child was born of the marriage. The husband refused to receive his wife in the house where he lodged, or to give her any help towards her maintenance. *Held* that such conduct on his part constituted desertion.

The above-mentioned cases were decided under other statutes; the following cases have been decided under this section:—

Adulterous wife.

A married woman having repeatedly committed adultery, was ordered by her husband to leave his house, which she did, and never returned to him, but resided in a parish for such a term as would, if she were a single woman, have rendered her irremovable and settled in such parish under 39 & 40 Vict. c. 61, s. 34. It was held that the wife was settled in the parish where she resided apart from her husband, for although the conduct of the husband might have been under the circumstances justifiable, there had been such a desertion of her by him as to bring the case within 24 & 25 Vict. c. 55, s. 3 (*Reg.* v. *Maidstone Union*, 5 Q. B. D. 31; 49 L. J. M. C. 25; 41 L. T. 586; 28 W. R. 183; 44 J. P. 440).

One night in June, 1873, a married woman who had been drinking at a public-house with a man with whom her husband reasonably suspected her of too much intimacy, came home the worse for drink and found the door of her husband's house locked. She forced her way in; and in the morning, after some words,

three years in such a manner as would, if she were a widow, render her exempt from removal, she shall not be liable to be removed from the parish wherein she shall be resident, unless her husband return to cohabit with her. Sect. 3.

IV. Where any destitute wayfarer, wanderer, or foundling shall be or become chargeable upon the common fund of any union, the cost of the relief of such wayfarer, wanderer, or foundling shall continue to be charged to such common fund until the relief shall be discontinued. Chargeability of wayfarers, &c.

[Sect. 5. *Chargeability of sick persons:* Repealed by the S. L. R. Act, 1875.]

VI. The cost of the examination of any lunatic pauper, present or future, of his removal to and from and his maintenance in any asylum, licensed house, or registered hospital, who Lunatics to be chargeable upon the common fund.

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her husband threatened to lock her in. He then went out to his work, and when he came back he found his wife absent, and that part of his furniture and clothes had been carried away. The woman took a room elsewhere, and shortly afterwards went away with the man with whom she lived in adultery until his death in 1879. After his death she wrote to her husband asking him to receive her back. He took no notice of her letter, and if she had gone back to him he would not have received her. In August, 1881, she became chargeable to the parish of Liverpool as a pauper lunatic, and an order of justices was made for her removal to her husband's parish, which order was confirmed by the quarter sessions. Upon appeal against the last-mentioned order, held that the above facts disclosed no reasonable evidence of desertion of the wife by the husband, within the statute (*Reg.* v. *Cookham*, 9 Q. B. D. 522; 47 J. P. 116). Sect. 3. Note.

In consequence of a quarrel, a man separated from his wife and daughter, and took other lodgings in the same parish, where he cohabited with another woman by whom he had children, and resided with them for a period of about thirteen years. The wife shortly after the separation having become chargeable to the parish, the man, under threat of legal proceedings by the parish officers, paid her 2*s.* 6*d.* a week. The wife afterwards removed with the daughter (who was eighteen years old, unemancipated, and had no settlement of her own) to another parish, where the allowance by the husband continued, and where after residing more than a year mother and daughter became chargeable. *Held* that the conduct of the husband amounted to desertion, and that the wife was irremovable; but that the daughter was removable to her father's place of settlement, as the mother did not by reason of the desertion become the head of the family (*Reg.* v. *St. Mary, Islington*, L. R. 5 Q. B. 445; 39 L. J. M. C. 137; 22 L. T. (N. S.) 654; 34 J. P. 646). Adulterous husband.

As to the relief of the casual poor, see the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 2. Sect. 4. Note.

The 16 & 17 Vict. c. 97, is repealed by the Lunacy Act, 1890 (53 Vict. c. 5), and many of its provisions are re-enacted therein with Sect. 6. Note.

Sect. 6.

16 & 17 Vict. c. 97.

would under any provision of the sixteenth and seventeenth Victoria, chapter ninety-seven, be chargeable to a parish in a union, shall be borne by the common fund of the union comprising such parish.

[Sect. 7. *Orders in lunacy may be obtained or appealed against by boards of guardians:* Repealed by the Lunacy Act, 1890 (53 Vict. c. 5), s. 342. The law as to guardians obtaining and appealing against orders of maintenance of pauper lunatics is now regulated by sects. 286—314 of that Act.]

Provisions charging certain paupers on common fund made perpetual.

VIII. The temporary provisions of the several statutes whereby the costs of the relief, burial, and maintenance of certain paupers have been made chargeable upon the common fund of unions until the end of this session of Parliament are hereby made perpetual.

Parishes in unions under 4 & 5 Will. 4, c. 76, to contribute to common fund according to annual rateable value.

IX. [*Recital that it was expedient to alter the mode in which the contributions of parishes to the common fund of the union in which they are comprised are calculated.*] The several parishes comprised in any union already formed or hereafter to be formed under the provisions of the Poor Law Amendment Act, 1834, shall contribute to the common fund thereof, in proportion to the annual rateable value of the lands, tenements, and hereditaments in such parishes respectively assessable by the laws in force for the time being to the relief of the poor, and in no other manner, whether the lands, tenements, and hereditaments shall be actually rated or not, and whether the rate levied shall be collected in full or upon any composition: . . .

Mode of ascertaining the annual rateable value.

X. The guardians of every such union, in computing the amount of contribution to the common fund from the several

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modifications; the latter Act must therefore be read in this section in the place of the repealed Act. (See Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 38.)

Sect. 6. Note.

Under the Lunacy Act, 1890, s. 286, the expenses, maintenance, &c., of a pauper lunatic are to be defrayed by the union to which he is chargeable, not by the parish of his residence or settlement.

Sect. 8. Note.

The effect of this section is to make perpetual all previous statutes relating to the poor law which had not then been repealed.

Sect. 9. Note.

The latter part of this section, being a proviso as to any liabilities of a parish existing at the passing of this Act, is repealed by the S. L. R. Act, 1875. The provisions of this section are in substitution for those of sect. 28 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), according to which the contributions to the common fund were based upon an average of the expenses of each parish for the preceding three years.

Sect. 10. Note.

Although not expressly repealed, this and the following section are now entirely superseded by the provisions of sect. 30 of the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103).

parishes, shall take the annual rateable value of such property in every parish therein from the valuation upon which such parish was assessed to the county rate, or, where there is no county rate, to the borough or ward rate, or other rate in the nature of a county rate, in the last assessment made not less than one month next preceding the day when the order for such contribution is made. Sect. 10.

XI. No order of guardians for contribution purporting to be made in accordance with this Act shall be deemed to be void by reason of any error in the estimate of the rateable value of the property in any parish in the union upon which the contribution shall have been calculated; but every parish affected by such error shall be entitled to have the same set right in the making out and closing of the accounts of the union or at the audit thereof. Saving as to errors of calculation.

XII. The words used in this Act shall be construed in the like manner as in the Poor Law Amendment Act, 1834; and the provisions contained therein and in the subsequent Acts explaining and extending the same, and not repealed, shall, so far as they shall be consistent herewith, be extended to this Act. Interpretation and incorporation. 4 & 5 Will. 4, c. 76.

POOR REMOVAL ACT (No. 2), 1861.

24 & 25 VICT. CHAP. 76.

An Act to amend the Law relating to the Removal of Poor Persons to Ireland. [6th August, 1861.]

[Preamble recited 8 & 9 Vict. c. 117.]

[I.] No application for a warrant ordering the removal from any place in England to Ireland of any poor person who shall have become chargeable in such place shall be heard and determined except by two or more justices in petty sessions assembled, or by a stipendiary magistrate, or metropolitan Warrant of removal to be applied for at petty sessions, or before a stipendiary magistrate, &c.

See note to sect. 10, *supra*. Sect. 11.

Note.

The warrant herein mentioned is granted under the Poor Removal Act, 1845 (8 & 9 Vict. c. 117), s. 1, as amended by the Poor Removal Act, 1847 (10 & 11 Vict. c. 33). Sect. 1.

Note.

This Act is amended in various respects by the Poor Removal Act, 1863 (26 & 27 Vict. c. 89).

A similar Act, with regard to the removal of Scotch paupers, is the Poor Removal Act, 1862 (25 & 26 Vict. c. 113).

Sect. 1.

police magistrate sitting in his court; which justices or magistrate (as the case may be) shall see such poor person or the person who is the head of the family proposed to be removed, and shall be satisfied that every person who is proposed to be removed by the warrant is in such a state of health as not to be liable to suffer bodily or mental injury by the removal.

Warrant to be applied for by relieving officer, to contain name and age of every person to be removed, and other particulars, &c.

II. Such warrant of removal shall be granted only on the application of the relieving officer or other officer of the guardians of the union or parish where such poor person shall become chargeable, and shall contain the name and reputed age of every person ordered to be removed by virtue of the same, and the name of the place in Ireland where the justices or magistrate shall find such person to have been born or to have last resided for the space of three years, and a statement of such examination having been made as to the state of health of every person ordered to be removed as aforesaid; and such warrant shall be addressed to the party applying for the same, and to the guardians of the union or parish to which such poor person is to be removed; and a copy shall be given by and at the cost of the person applying for such warrant to the person or the head of the family about to be removed by virtue of it: Provided, that in the case of any native of Ireland who shall have been absent from Ireland less than twelve months, the pauper may, if the guardians applying for the warrant and the justices or magistrate issuing it think fit, be removed to any place, other than that above described, with his consent; and provided also, that in any case where the justices or magistrates shall not be able to ascertain upon the evidence before them the place of birth, or of such continued residence as aforesaid, they shall order the pauper to be removed to the port in Ireland which shall in the judgment of such justices under the circumstances of the case be most convenient.

Copy of the warrant, &c. to be sent to guardians of place to which the removal is to be made.

III. The guardians obtaining the warrant shall send a copy of it, by post, to the clerk of the board of guardians of the union in Ireland to which such poor person shall be ordered to be removed, and also a copy of the depositions taken in the case, if the same shall, at any time within three months from the date of the warrant, be required by any such board of guardians.

Warrant shall order poor person to be

IV. Such warrant shall order the removal of the poor person to be made to the place mentioned therein as aforesaid, and

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Sect. 4. Note.

So much of this section as authorizes the conveyance of any poor person to any other place than that mentioned in the warrant of removal, is repealed by sect. 1 of the Poor Removal Act, 1863 (26 & 27 Vict. c. 89); and by sect. 4 of that Act a penalty is imposed upon any person executing the warrant who wilfully deserts a pauper on the journey.

shall order the persons charged with the execution thereof to cause such poor person, with his family (if any) to be safely conveyed to such place in Ireland, [*to be delivered at the workhouse of the union containing the port of or nearest to the place of the pauper's destination.*]

Sect. 4. conveyed to the place mentioned in the warrant, &c.

[Sect. 5. *The guardians of the union at the port may forward the pauper to the place of destination and recover the costs from the guardians in England:* Repealed by the S. L. R. Act, 1875, having become unnecessary owing to the repeal of the concluding part of sect. 4, *supra.*]

VI. It shall be unlawful to remove any woman or any child under the age of fourteen as a deck passenger in any vessel from England to Scotland or Ireland, during the period from the first of October to the thirty-first of March following; and no regulation of justices authorizing such a removal shall be henceforth legal.

Women and children not to be removed as deck passengers during the winter.

[Sect. 7. *Repeal of sect.* 6 *of* 8 *&* 9 *Vict. c.* 117: Repealed by the S. L. R. Act, 1875.]

VIII. Except so far as this Act shall alter the provisions of the said Act, this Act shall be construed as a part of the same.

Acts to be construed together.

MALICIOUS DAMAGE ACT, 1861.

24 & 25 VICT. CHAP. 97.

An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property.

[6th August, 1861.]

[*Preamble.*]

[Only so much of this Act is here included as relates to injury to the property of poor law unions and parishes.]

* * * * *

V. Whosoever shall unlawfully and maliciously set fire to any building, other than such as are in this Act before mentioned, belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or belonging to any university, or college or hall of any university, or to any inn of court, or devoted or dedicated to public use or ornament, or

Setting fire to any public building.

By sect. 5 of the Poor Removal Act, 1863 (26 & 27 Vict. c. 89), a penalty not exceeding 5*l.* may be imposed for the violation of the provisions of this section.

Sect. 6. Note.

Sect. 5.

erected or maintained by public subscription or contribution, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, . . . or to be imprisoned and, . . . if a male under the age of sixteen years, with or without whipping.

* * * * *

Rioters demolishing church, building, &c.

XI. If any persons riotously and tumultuously assembled together to the disturbance of the public peace shall unlawfully and with force demolish, or pull down or destroy, or begin to demolish, pull down, or destroy, any church, chapel, meeting house, or other place of divine worship, or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, or any building other than such as are in this section before mentioned, belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or belonging to any university, or college or hall of any university, or to any inn of court, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, or any machinery, whether fixed or movable, prepared for or employed in any manufacture, or in any branch thereof, or any steam engine or other engine for sinking, working, ventilating, or draining any mine, or any staith, building, or erection used in conducting the business of any mine, or any bridge, waggonway, or trunk for conveying minerals from any mine, every such offender shall be guilty of felony, and being convicted thereof shall be liable . . . to be kept in penal servitude for life. . . .

Rioters injuring building, machinery, &c.

XII. If any persons riotously and tumultuously assembled together to the disturbance of the public peace shall unlawfully and with force injure or damage any such church, chapel, meeting house, place of divine worship, house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, waggonway, or trunk, as is in the last preceding section mentioned, every such offender shall be guilty of a misdemeanour, and being convicted thereof shall be liable . . . to be kept in penal servitude for any term not exceeding seven years . . .: Provided, that if upon the trial of any person for any felony in the last preceding section mentioned the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.

Persons tried for felony under preceding section may be found guilty of misdemeanour under this section.

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Destroying or damaging works of art

XXXIX. Whosoever shall unlawfully and maliciously destroy or damage any book, manuscript, picture, print, statue, bust, or

vase, or any other article or thing kept for the purposes of art, science, or literature, or as an object of curiosity, in any museum, gallery, cabinet, library, or other repository, which museum, gallery, cabinet, library, or other repository is either at all times or from time to time open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument or other memorial of the dead, painted glass, or other ornament or work of art, in any church, chapel, meeting house, or other place of divine worship, or in any building belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or to any university, or college or hall of any university, or to any inn of court, or in any street, square, churchyard, burial ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing, or fence surrounding such statue or monument, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding six months, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping : Provided, that nothing herein contained shall be deemed to affect the right of any person to recover, by action at law, damages for the injury so committed.

Sect. 39.

in museums, churches, &c. or in public places.

Right to recover damages not affected.

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OFFENCES AGAINST THE PERSON ACT, 1861.

24 & 25 VICT. CHAP. 100.

An Act to consolidate and amend the Statute Law of England and Ireland relating to Offences against the Person.

[6th August, 1861.]

[*Preamble.*]

[Only so much of this Act is included here as bears upon matters relating to the poor law or poor law officers.]

* * * * *

XXVI. Whosoever, being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, shall wilfully and without lawful excuse

Not providing apprentices or servants with food, &c.

Sect. 26.

Note.

See sect. 73, *infra*, for the powers of guardians or overseers to prosecute offences under this section; and see the Poor Law (Apprentices) Act, 1851 (14 & 15 Vict. c. 11), for the duties of guardians and overseers with regard to the control and protection of apprentices and servants.

Sect. 26.

or doing bodily harm, whereby life is endangered, or health permanently injured.

refuse or neglect to provide the same, or shall unlawfully and maliciously do or cause to be done any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant shall be endangered, or the health of such apprentice or servant shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanour, and being convicted thereof shall be liable . . . to be kept in penal servitude . . .

* * * * *

Assault with intent to commit felony, or on peace officers, &c.

XXXVIII. Whosoever shall assault any person with intent to commit felony, or shall assault, resist, or wilfully obstruct any peace officer in the due execution of his duty, or any person acting in aid of such officer, or shall assault any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

* * * * *

Guardians and overseers may be required to prosecute in certain cases of offences against this Act.

LXXIII. Where any complaint shall be made of any offence against section twenty-six of this Act, or of any bodily injury inflicted upon any person under the age of sixteen years, for which the party committing it is liable to be indicted, and the circumstances of which offence amount, in point of law, to a felony, or an attempt to commit a felony, or an assault with intent to commit a felony, and two justices of the peace before whom such complaint is heard shall certify under their hands that it is necessary for the purposes of public justice that the prosecution should be conducted by the guardians of the union or place, or, where there are no guardians, by the overseers of the poor of the place, in which the offence shall be charged to have been committed, such guardians or overseers, as the case may be, upon personal service of such certificate or a duplicate thereof upon the clerk of such guardians, or upon any one of such overseers, shall conduct the prosecution, and shall pay the

Sect. 38.

Note.

By the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 9, persons convicted of assaults upon workhouse officers or relieving officers in the discharge of their duty, are liable to the same punishment as provided by law for an assault upon a peace officer in the due execution of his duty.

Sect. 73.

Note.

This section takes the place of sect. 6 of the Poor Law (Apprentices) Act, 1851 (14 & 15 Vict. c. 11), now repealed.

Before this Act guardians who had prosecuted a person for ill-using a child were held to be entitled to the costs of the prosecution as "officers" within the meaning of 5 & 6 Wm. & M. c. 11, s. 3 (now repealed). *West London Union* v. ———, 15 Q. B. 1060.

Under the Prevention of Cruelty to Children Act, 1894 (57 & 58 Vict. c. 41), s. 21, guardians may pay costs of prosecutions for offences against children under that Act.

costs reasonably and properly incurred by them therein (so far as the same shall not be allowed to them under any order of any court) out of the common fund of the union, or out of the funds in the hands of the guardians or overseers, as the case may be; and, where there is a board of guardians, the clerk or some other officer of the union or place, and, where there is no board of guardians, one of the overseers of the poor, may, if such justices think it necessary for the purposes of public justice, be bound over to prosecute.

Sect. 73.

Costs of prosecution.

Clerk of guardians may be bound over to prosecute.

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METROPOLITAN POLICE ACT, 1861.

24 & 25 VICT. CHAP. 124.

An Act amending the Law relating to the Receiver for the Metropolitan Police District; and for other Purposes.
[6th August, 1861.]

[Preamble recites 10 Geo. 4, c. 44, ss. 10, 16, 23, &c.]

[This Act deals with the duties of the receiver for the metropolitan police district. Only so much is included here as relates to the duties of overseers in respect of the collection and payment of the police rate.]

* * * * *

VII. [*Repeal of so much of* 10 *Geo.* 4, *c.* 44, *s.* 25, *as provides for payment to the receiver of the amount mentioned in the warrant and as makes the receipt of the receiver a sufficient discharge to the overseers.*] The overseers shall pay into the Bank of England to the account of the receiver of the metropolitan police, the amount mentioned in the warrant within the time specified for that purpose; and the certificate of the Bank, signed by one of the cashiers, specifying the amount paid into the Bank, shall be a sufficient discharge to the overseers for such amount, and shall be allowed as such in passing their accounts with their respective parishes, townships, precincts, or places.

Payment by overseers of the sums mentioned in warrants into the Bank.

* * * * *

Sect. 7.

Note.

The warrant in this section mentioned is the warrant prescribed in sect. 23 of the Metropolitan Police Act, 1829 (10 Geo. 4, c. 44), to be issued to overseers of parishes, &c., within the metropolitan police district, to levy a police rate upon all persons liable to the poor rate.

PAROCHIAL OFFICES ACT, 1861.

24 & 25 VICT. CHAP. 125.

An Act to enable Overseers in populous Parishes to provide Offices for the proper Discharge of Parochial Business.*

[6th August, 1861.]

Power to overseers and vestries, with consent of Poor Law Board, to provide offices for use of parishes.

[I.] The overseers of any parish in England the population whereof shall exceed four thousand persons according to the census for the time being, with the consent of the vestry, called after due notice, and with the consent of the Poor Law Board, signified by an order under their seal, may hire any room, or purchase or take upon lease or exchange any land or building, or sell land belonging to such parish, and invest the proceeds of such sale in the purchase of other land and building, or erect a suitable building on any land acquired as aforesaid, for the purpose of an office for the transaction of the business of the parish.

8 & 9 Vict. c. 18.

And the Lands Clauses Consolidation Act, 1845, (except the parts and enactments of that Act with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the recovery of forfeitures, penalties, and costs,) shall, in so far as the same is consistent with this Act, be incorporated with this Act.

And for the purposes of this Act the expressions "the promoters of the undertaking," or "the secretary," whenever used in that Act, shall respectively mean the overseers as aforesaid; and the expression "tolls or rates," whenever used in the said first-mentioned Act, shall mean monies to be raised for the relief of the poor; and all lands and premises which shall be so purchased or taken on lease or exchange by the overseers of any parish shall be conveyed, demised, and assured to such overseers and their successors, in trust for the purposes aforesaid; and the yearly rent reserved by any lease shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of any such parish, and shall be paid by the overseers as aforesaid of such parish as such rent becomes

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Note.

By the Vestries Act, 1850 (13 & 14 Vict. c. 57), in a parish containing 2,000 inhabitants, the overseers may, after an order made by the Local Government Board, provide a vestry room for the holding of vestry meetings.

In rural parishes, the powers of overseers with regard to the provision of a vestry room or parochial office is transferred to the parish council by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*c*) (ii).

payable; and if at any time any such rent be not paid within thirty days after it so becomes payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the overseers as aforesaid, with costs of suit, by action of debt in any court of appropriate jurisdiction, or may levy the same by distress of the goods and chattels of any of the overseers as aforesaid; and such overseers may provide the requisite furniture and fittings of such room or such building, and appoint and pay out of the poor rate such persons to take care thereof, or of any vestry room provided under the authority of the Vestries Act, 1850, and to aid in the ordinary business of the parish, as the vestry shall authorize and the Poor Law Board shall approve; and every such building and vestry room shall be warmed and lighted, and, with its furniture, shall be kept in good condition and repair, at the cost of the poor rate.

Sect. 1.

13 & 14 Vict. c. 57.

II. The overseers of any parish may, with the consent of the vestry, provide proper depositories of all the documents, books, and papers belonging to such parish for which no provision is otherwise made by law, and charge the cost thereof upon the poor rate.

Overseers may provide depositories for parish documents.

III. The words used in this Act shall be construed in the like manner as in the Poor Law Amendment Act, 1834.

Interpretation. 4 & 5 Will. 4, c. 76.

POOR LAW (CERTIFIED SCHOOLS) ACT, 1862.

25 & 26 VICT. CHAP. 43.

An Act to provide for the Education and Maintenance of Pauper Children in certain Schools and Institutions.*

[17th July, 1862.]

[This Act is applied to illegitimate children by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 23, and is repealed as to blind or deaf children by the Elementary Education (Blind

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 2.

Note.

In rural parishes, the powers of overseers under this section are transferred to the parish council by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (c) (ii).

Provision was made by the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 6, for the custody of parish books and documents other than the registers of marriages, baptisms, and burials; and now by sect. 17 (8) of the Local Government Act, 1894, such books and documents are, in rural parishes, to be in the custody of the parish council or as they may direct.

and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42), s. 13, except as to such classes of blind or deaf children as are mentioned in that section.]

Sect. 1.

Power to guardians to send poor children to schools.

[I.] The guardians of any parish or union may send any poor child to any school certified as herein-after mentioned, and supported wholly or partially by voluntary subscriptions, the managers of which shall be willing to receive such child, and may pay out of the funds in their possession the expenses incurred in the maintenance, clothing, and education of such child therein during the time such child shall remain at such school (not exceeding the total sum which would have been charged for the maintenance of such child if relieved in the workhouse during the same period), and in the conveyance of such child to and from the same, and, in the case of death, the expenses of his or her burial.

Poor Law Board to certify the school.

II. The Poor Law Board may, if they think fit, upon the application in writing of the managers of any such school as aforesaid, appoint such person as they shall deem proper to examine into the condition of the school, and to report to the said board thereon; and, if satisfied with such report, that board may, by writing under the hand of one of their secretaries, certify that such school is fitted for the reception of such children or persons as may be sent there by the guardians in pursuance of this Act; and it shall be lawful for the said Board, if at any time they shall be dissatisfied with the condition or management of such school, by notice addressed to the managers, and signed as aforesaid, to declare that the certificate is withdrawn from and after a day to be specified therein, not less than two months after the date thereof.

Sect. 1.

Note.

The limit of expenditure enacted by this section is removed by the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 13, which provides that the guardians "may pay the reasonable expenses incurred in the maintenance, clothing, and education of such child whilst in such school to an amount not exceeding such rate of payment as may be sanctioned by the Local Government Board for pauper children sent to such school."

By the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 14, upon the application of any parent, &c., of a child not belonging to the Established Church relieved in a workhouse or a district school, the Local Government Board may order the child to be sent to some school established for the reception, maintenance, and education of children of the religion to which the child may be proved to belong, and certified under this Act; and the guardians of the union or parish to which the child is chargeable shall pay the costs, &c., of such child at the school.

In the metropolis the expenses of the maintenance of pauper children in certified schools are repayable to the guardians out of the metropolitan common poor fund (Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 69 (8)).

Sect. 3.

Poor Law Board may order children to be removed from schools.

III. If the Poor Law Board shall be of opinion that any person is aggrieved by any child being so sent or kept at such school as aforesaid, the board may order any such child to be removed, and the guardians shall forthwith cause such child to be removed from the school; and every engagement previously entered into for the payment of the charges of such child shall thereupon cease, and become void for the future.

School to be open to inspection.

IV. Every school wherein any such child shall be received shall be open to the visitation and inspection of any inspector appointed by the Poor Law Board; and he shall be empowered to make any examination into the state and management of the same which he shall deem requisite, and the condition and treatment of the said children therein, and shall make his report thereon to the said board; and the guardians by whom any child may have been sent to any such school as aforesaid may from time to time appoint any one of their body to visit and inspect such school, and such school shall at all reasonable times be open to such visitation or inspection.

Guardians to bring back child to parish or union.

V. The guardians may at any time, at their discretion, and shall, upon the requisition of the managers of the school, or upon the withdrawal of the certificate as herein provided, cause any such child to be removed from any such school, and brought back to their parish or union.

Description of children to be sent to schools.

VI. No child shall be sent to such school unless he or she be an orphan or deserted by his or her parents or surviving parent, or be one whose parents or surviving parent shall consent to the sending of such child to the said school.

Continuance in school not to be compulsory.

VII. Nothing herein contained shall enable the guardians to keep any child in any school against the will of such child, if above the age of fourteen, or of the parents or surviving parent of such child, whatever be the age of the child.

Charge of expenses how to be borne.

VIII. The expenses incurred by the guardians in respect of any child under this Act shall be charged to the same fund and in the same manner as the relief otherwise supplied to such child would be charged.

Child not be sent to certain schools.

IX. No child shall be sent under this Act to any school which is conducted on the principles of a religious denomination to which such child does not belong.

Sect. 6.

Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 23, illegitimate children may be sent to such schools, and the consent of the mother is sufficient and requisite.

Sect. 9.

Note.

It is specially provided by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 1 (6), that nothing in that section (as to guardianship of deserted children) shall affect the enactment in this section.

Sect. 10.
Interpretation.
4 & 5 Will. 4, c. 76.

X. The several words used in this Act shall be construed as in the Poor Law Amendment Act, 1834; and the word "school" shall extend to any institution established for the instruction of blind, deaf, dumb, lame, deformed, or idiotic persons, but shall not apply to any certified reformatory school.

Extent of Act.

XI. This Act shall not extend to Scotland or Ireland.

POOR RATES RECOVERY ACT, 1862.

25 & 26 VICT. CHAP. 82.

An Act for the more economical Recovery of Poor Rates and other Local Rates and Taxes. [7th August, 1862.]

[Preamble recited that it was expedient to provide for the more economical recovery of poor rates and other local rates and taxes.]

Consolidation of proceedings for the recovery of rates.

[I.] Where any number of local rates and taxes, whether of the same or of different kinds, are due from the same person, the rates and taxes so due may be included in the same information, complaint, summons, order, warrant, or other document required by law to be laid before justices or to be issued by justices; and every such document as aforesaid shall, as respects each rate or tax comprised in it, be construed as a separate document; and its invalidity as respects any one rate or tax shall not affect its validity as respects any other rate or tax comprised in it:

No costs shall be allowed in respect of several informations, complaints, summonses, orders, warrants, or other such documents as aforesaid, in cases where, in the opinion of the justices or court having jurisdiction over the said costs, one information, complaint, summons, order, warrant, or other document as aforesaid might have sufficed, regard being had to the provisions of this Act.

Sect. 10.
Note.

Blind and deaf children are now excepted by the Elementary Education (Blind and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42), s. 13, except as to such classes of blind and deaf children as are mentioned in that section.

Sect. 1.
Note.

A similar enactment with regard to the metropolis is contained in the Metropolis Management Amendment Act, 1862 (25 & 26 Vict. c. 102), s. 18.

Provisions for issuing one warrant against several ratepayers for non-payment of the same rate are contained in the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), s. 3. By sect. 1 of that Act the costs of proceedings to recover rates are in the discretion of the justices issuing the warrant of distress.

METROPOLIS MANAGEMENT AMENDMENT ACT, 1862.

25 & 26 VICT. CHAP. 102.

An Act to amend the Metropolis Local Management Acts.*
[7th August, 1862.]

* * * * *

Sums to be assessed by metropolitan board.

V. [*Repeal of* 18 & 19 *Vict. c.* 120, *s.* 170.] The Metropolitan Board of Works shall from time to time ascertain and assess upon the several parts of the metropolis the several sums which, having regard to the annual rateable value of the property in such parts respectively, ought to be charged thereon for defraying the expenses of the said board in the execution of the firstly and secondly-recited Acts and of this Act, and any such sums may be assessed wholly or in part in respect of expenses incurred or to be incurred, and also in respect of any unpaid balance of any former precept of the said board: Provided always, that such repeal shall not in any respect affect any act, matter, or thing whatsoever done or commenced to be done under or by virtue of the said firstly and secondly-recited Acts, or any proceeding taken or to be taken under the thirdly-recited Act, or to affect or prejudice, except as herein specially provided, in any way the rights or liabilities of any district or part under the one hundred and eighty-first section of the firstly-recited Act, but the same shall be judged of in all respects as if this Act had not been passed.

Basis of assessment.

VI. For the purpose of making any assessment under the preceding section the board shall estimate the annual value of property according to the estimate or basis on which any county rate in force in any part of the metropolis is made, or, where there is no such county rate, according to a like estimate or basis.

Mode of assessment by the Metropolitan Board of Works.

VII. All such assessments to be made by the Metropolitan Board of Works shall be assessed and charged by the said

* For "Metropolitan Board of Works" throughout this Act now read "London County Council" (Local Government Act, 1888 (51 & 52 Vict. c. 41) s. 40 (8)).

Sect. 6.

Note.

So much of sects. 6, 7, and 13 of this Act as authorizes or relates to ascertaining the value of any hereditament with respect to the value of which the valuation list is conclusive, and so much of any Act as applies those provisions, is repealed by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

Sect. 7.

Note.

See note to sect. 6, *supra*.

By the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 11 (2), precepts issued by the London County Council for the

Sect. 7.

board upon the same basis and in the same manner as the county rate is assessed and charged by the justices under the statutes in force for assessing and charging county rates in England and Wales: Provided always, that all precepts shall be issued and rates levied by the said board in manner directed by the several recited Acts relating to the better local management of the metropolis and by this Act, so far as relates to making precepts and levying rates.

Assessments and precepts of metropolitan board may be according to forms in schedule (C.).

VIII. The assessment of any monies to be assessed by the Metropolitan Board of Works for the expenses of executing the firstly and secondly-recited Act and this Act, *and the precepts for obtaining payment of monies required by the board for that purpose*, may be according to the forms contained in schedule (C.) to this Act, or to the like effect.

[Sects. 9—12. Repealed by 62 & 63 Vict. c. 14.]

Metropolitan board may amend assessments and precepts where necessary.

XIII. It shall be lawful for the Metropolitan Board of Works, in case of any omission or other inaccuracy in any assessment or precept which they have made or issued, to make such amendments or alterations therein as may render the same conformable to the provisions of the recited Acts and this Act; and it shall be lawful for the said board, should they deem it requisite and proper, to revoke any precept which they may have issued, and to issue another precept in lieu thereof.

[Sect. 14. Repealed by 62 & 63 Vict. c. 14.]

Power to metropolitan board, vestries, and district boards to demand to be furnished with copies of poor rate, &c.

XV. It shall be lawful for the Metropolitan Board of Works, or for the vestry of any parish mentioned in schedule (A.) to the firstly-recited Act, or for any district board, by order in writing, to require the vestry clerk, overseer, collector, or other person having the custody or control of any rate for the relief of the poor in any parish or place, or of any other rate, or of any book containing a copy of any such rate as aforesaid, to

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Sect. 7. Note.

purpose of obtaining money which is ultimately to be raised out of a rate within a metropolitan borough is to be sent to the borough council at their office, addressed to the council or to the town clerk.

Sect. 8. Note.

The words in italics are repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14); and by sect. 11 (2) of that Act it is provided that the form of the precepts issued by the London County Council may be settled by the Local Government Board.

Sect. 13. Note.

See note to sect. 6, *supra*.

Sect. 15. Note.

This section is repealed, so far as relates to vestries and district boards, by the London Government Act, 1899 (62 & 63 Vict. c. 14).

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furnish, within such period, not being less than seven days, as shall be limited in such order, a true copy of such rate for the relief of the poor, or other rate, or of such copy thereof as aforesaid, or of such part or parts of the same as shall be specified in such order, on payment or tender for such copy at the rate of sixpence for every twenty-four names (inclusive of all the particulars in the several columns in the rate, so far as such particulars have reference to such names respectively), and the said copy shall be examined by and signed by such vestry clerk, overseer, collector, or other person, and shall be verified by his solemn declaration, if the said metropolitan board or vestry or district board shall require the same, which solemn declaration any justice of the peace, or commissioner duly authorized, is hereby empowered to administer; and any person having the custody or control of such rate, or copy thereof, who shall refuse or neglect to make and deliver to such metropolitan board, vestry, or district board, or any person by them authorized to receive the same, such copy or extract, or to make such solemn declaration as aforesaid, shall be liable to a penalty not exceeding ten pounds for every such offence, and to a further penalty not exceeding ten pounds for each and every day during which the said offence shall be continued, to be recovered by a summary proceeding.

[Sect. 16. Repealed by 62 & 63 Vict. c. 14.]

Recovery of monies assessed by metropolitan board on extra-parochial property for payment of debts.

XVII. The sums from time to time assessed by the Metropolitan Board of Works upon or in respect of any extra-parochial or other property which was included in any separate sewerage district under the Metropolitan Commission of Sewers, for or towards payment of any debt or debts charged upon such district at the determination of the said Act of the eleventh and twelfth Victoria, chapter one hundred and twelve, or of any interest thereon, for the payment of which provision is not otherwise made in the said recited Acts or this Act, shall be paid, on demand, to the said board, by the occupier of the tenements or premises, or by the person or persons in receipt of any tolls or profits issuing out of any incorporeal hereditaments in respect of which such assessment shall be made, and every such sum may be recovered by the said board by an action at law or by a summary proceeding before a justice, at the option of the said board.

One summons only to issue for the recovery of rates.

XVIII. In any proceedings before any justice or justices, by or on behalf of any vestry, district board, overseer, or collector,

Sect. 18.

Note.

By the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 10 (1) (2), all the expenses of a metropolitan borough council are to be paid out of a general rate, and separate sewers and lighting rates are to be discontinued; and the general rate and the poor rate are to be assessed, made, and levied together as one rate, to be termed the general rate, in the same manner as if it were the poor rate.

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against the occupier or owner of any premises, for the recovery of any rates assessed under the said Acts or this Act which may be in arrear, all the rates for the recovery of which such proceedings shall be taken shall be included in the same summons, and the charge for such summons shall not exceed one shilling, and the signature of any justice or justices to any such summons may be either in writing or by a stamp affixed as such justice or justices may direct.

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THE UNION ASSESSMENT COMMITTEE ACT, 1862.

25 & 26 VICT. CHAP. 103.

An Act to amend the Law relating to Parochial Assessments in England. [7th August, 1862.]

[Preamble recited that it was expedient that more effectual provision should be made for securing uniform and correct valuations of parishes in the unions of England.]

Interpretation.

4 & 5 Will. 4, c. 76.

Short title.

[I.] The words used in this Act shall be construed in like manner as the words contained in the Act fourth and fifth of King William the Fourth, chapter seventy-six, and the word "committee" shall signify the assessment committee provided for by this Act; and this Act shall be termed "The Union Assessment Committee Act, 1862."

Appointment of the assessment committee by board of guardians.

II. The board of guardians of every union, formed under the Poor Law Amendment Act, 1834, shall in every year, at their first meeting after the annual election of guardians, appoint from among themselves any number not less than six nor

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Sect. 1.

For interpretation of terms, see 4 & 5 Will. 4, c. 76, s. 109.

Note.

The following sections of this Act are repealed by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), so far as relates to the metropolis, as defined by that Act, viz.: Sects. 3, 14, 15, 22—27, 29, 31—36, 39, 41—43, 45, and parts of sects. 17, 28.

Sect. 2.

The words omitted from this section, as denoted by asterisks, related to *ex-officio* guardians, and were repealed by the Local Government Act, 1894, s. 89.

Note.

Sect. 45, *post*, gives power for unions under Gilbert's Act (22 Geo. 3, c. 83, now repealed) or under local Acts to adopt the provisions of this Act; and by the Union Assessment Act, 1880 (43 & 44

more than twelve to be a committee * * * to be called the assessment committee of the union, for the investigation and supervision of the valuations to be made as herein-after mentioned within such union, and for the performance of such said acts and duties as herein-after mentioned. * * * Sect. 2.

III. Where any union shall have the same bounds as a municipal borough, the clerk to the guardians of such union shall, upon the appointment of the assessment committee, if directed by the said guardians to do so, transmit in writing the names of the persons so appointed to the town council of such borough, and such council may thereupon, if they think fit, appoint from themselves a certain number, not exceeding the number appointed by the board of guardians, who shall, until they respectively cease to be members of the town council or decline to act, forthwith form part of the assessment committee for such union, and the said council may from time to time supply any vacancies in the number of persons appointed by them. Where union has the same bounds as borough, names of assessment committee to be transmitted to town council, who may appoint additional members.

IV. If the guardians shall neglect or be prevented from making such appointment at the meeting above specified, the Poor Law Board shall by their order appoint some other day on which the guardians shall make such appointment. Provision in case of neglect to appoint.

V. If any * * * guardian being a member of the committee cease to be guardian, or resign his seat at such committee, or die, or become incapable of acting as such member, the board of guardians shall with all convenient speed appoint a * * * guardian * * * to supply the vacancy. Supply of vacancies.

Vict. c. 7), s. 2, this Act may be applied to single parishes under a separate board of guardians. Sect. 2.

By sect. 20(6) of the Local Government Act, 1894, newly elected guardians came into office on April 15th in each year, but by the same section provision may be made for the whole board retiring every third year. Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 3.

Note.

For "Poor Law Board" in this section now read "Local Government Board" (34 & 35 Vict. c. 70, s. 2). Sect. 4.

Note.

The words omitted from this section, as denoted by asterisks, related to *ex-officio* guardians, and were repealed by the Local Government Act, 1894, s. 89. Sect. 5.

Note.

A guardian may cease to be a guardian by resignation (5 & 6 Vict. c. 57, s. 11), by disqualification (56 & 57 Vict. c. 73, s. 46), or by ceasing to possess the qualification prescribed by 56 & 57 Vict. c. 73, s. 20.

Sect. 6.

Continuing members may act during vacancies.

VI. During any vacancy in any assessment committee the other or continuing members of such committee may act, and shall have the same powers and jurisdiction as if no such vacancy had happened.

Extent of committee's authority.

VII. The authority of the committee appointed for any union under this Act shall extend over every parish comprised in such union.

Meetings when and where to be holden.

VIII. The committee shall hold their first meeting at the board-room of the union on a day to be fixed by the board of guardians, and the subsequent meetings of the committee shall be holden at such times and at such place and upon such notice and requisition as they shall from time to time appoint; and any guardian of the union may be present at any meeting of the committee, but shall not be entitled to take part in the proceedings thereof.

Majority and quorum at meetings.

IX. All acts, orders, matters, and things by this Act authorized or directed to be made or done by the committee may be made or done by the major part of the members of such committee who shall be present at a meeting, the whole number present together at such meeting not being less than three, and not less in any case than one-third of the whole number of which such committee consists; and when upon any question there shall be an equality of votes the presiding chairman shall have a second or casting vote.

Committee may employ and pay clerk.

X. The committee shall employ the clerk or assistant clerk of the board of guardians as their clerk, with such remuneration for his services as the Poor Law Board shall sanction.

Proceedings to be entered in books and signed;

XI. The committee shall cause a minute of their proceedings, and of the names of the members who attend each meeting,

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Sect. 6. Note.

As to the power of the committee to act when its numbers are reduced below a quorum, see *Newhaven Local Board* v. *Newhaven School Board*, 30 Ch. D. 350; 53 L. T. 571; 34 W. R. 172.

Sect. 9. Note.

The majority required is a majority of those present whether they vote or not (*Reg.* v. *Christchurch*, 7 E. & B. 409; 26 L. J. M. C. 68); and the chairman has a vote in the ordinary way as well as a casting vote (*Nell* v. *Longbottom*, [1894] 1 Q. B. 767; 63 L. J. Q. B. 490; 70 L. T. 499).

Sect. 10. Note.

Special provision is made by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 31, for the remuneration of the clerk for making certified copies of valuation lists lost, injured, or destroyed.

Sect. 11. Note.

In the metropolis the minutes are to be signed by the chairman of the next meeting of the committee (32 & 33 Vict. c. 67, s. 74).

Sect. 11.

to be duly made from time to time in books to be provided for that purpose, which shall be kept by their clerk, under their superintendence, and every such entry shall be signed by the presiding chairman of the assessment committee present at the meeting at which the proceeding took place; and such entry purporting to be so signed, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being members of the committee, or of the signatures of the members, all of which facts shall be presumed until the contrary be proved; and all such books shall at all seasonable times be open to the inspection of every person rated to the relief of the poor in any parish or place in the union, without any fee being demanded for such inspection; and all such persons shall be entitled at all seasonable times to take copies or extracts from the said books, without paying any fee for the same; and if, on request made for that purpose, the clerk of the committee refuse to permit any such person to inspect any such books, or to take copies or extracts therefrom, as aforesaid, such clerk shall for every such offence be liable to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace.

Such entries evidence.

Books to be open to inspection.

XII. The board of guardians shall in the month of April in every year report the proceedings of their assessment committee to the Poor Law Board.

Proceedings of committees to be reported.

XIII. The committee by their order may from time to time require the overseers, assistant overseers, constables, assessors, collectors, and any other persons having the custody of any books of assessment of any taxes or rates, parliamentary or parochial, or of the valuations of any parish, or having the collection or management of any such taxes or rates, to make returns in writing to the committee, at such times and places as they may appoint, of all such particulars as they may direct in relation to such taxes, rates, or valuations, or any property included therein, so far as relates to the union for which they

Committee may require returns from overseers, &c.;

Sect. 12.

Note.

For "Poor Law Board" read now "Local Government Board" (34 & 35 Vict. c. 70, s. 2).

Sect. 13.

Note.

For the custody of parish documents see sect. 17 (8) of the Local Government Act, 1894.

For penalties for refusing to produce books or give evidence see sect. 40, *post*.

By the Inland Revenue Act, 1863 (26 & 27 Vict. c. 33), s. 22, documents relating to the assessment or collection of income-tax upon profits of trade chargeable under Schedule A. of the Income Tax Acts are not allowed to be produced before the Union Assessment Committee.

Sect. 13.

act, and may require the persons having the custody of any such books as aforesaid to make and transmit to the committee copies of or extracts from such books, or to permit such copies or extracts to be made by such persons as the committee may in that behalf direct; and may from time to time require any persons having the custody of any such books, or the collection or management of any such taxes or rates as aforesaid, to attend before them at a time and place to be mentioned in the order in this behalf, and to produce all parochial and public books of assessment, rates, rate-books, valuations, apportionments, tithe and other maps, plans, surveys, and other public documents in their custody or power, and may examine all persons who shall attend before them: Provided always, that nothing herein contained shall authorize the production of valuations or assessments which by any provision of law at present are not suffered to be made public.

and may require production of books, &c., and examine persons attending before them.

Overseers to prepare valuation lists.

XIV. Subject to any order as herein-after referred to which may be made by the committee, the overseers of each parish in the union shall, within three calendar months after the appointment of such committee, make a list of all the rateable hereditaments in such parish, with the annual value thereof respectively in so much of the form shown in the schedule annexed to the Act sixth and seventh William the Fourth, chapter ninety-six, as is set out in the schedule to this Act; and unless such overseers think that the valuation then last acted upon in assessing the rate for the relief of the poor

6 & 7 Will. 4, c. 96.

Sect. 14.

Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77. This section does not impose on the overseers the obligation of making an annual revision of the valuation list. The "order" mentioned at the commencement of the section is the order referred to in sect. 16, *post*.

The expenses of overseers incurred with consent of the vestry (or of the parish council in rural parishes), or allowed by the assessment committee, may be charged on the poor rates (27 & 28 Vict. c. 39, s. 7).

"Rateable" property in this section means all property in its nature capable of being rated, and is not confined to property which would be actually inserted in a rate at a time the list is returned. Thus, new houses ready for occupation but not let or occupied at the time of returning the valuation list are "rateable hereditaments" within the meaning of this section, and ought to be inserted in the valuation list (*Reg.* v. *Malden* (*Overseers*) or *Malden* v. *Kingston*, L. R. 4 Q. B. 326; 10 B. & S. 323; 38 L. J. M. C. 125; 33 J. P. 645).

Sect. 36, *post*, contains a saving of exemptions and special rules of rating.

The form of the valuation list shown in the schedule is altered by a general order of the Local Government Board, July 28th, 1896, issued in pursuance of the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16).

correctly shows the full annual rateable value of all such hereditaments, they shall revise such valuation, and such overseers shall sign every list so made by them as aforesaid, and such list shall be styled "The Valuation List." Sect. 14.

XV. The gross estimated rental for the purpose of the schedule to this Act shall be the rent at which the hereditament might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and tithe commutation rent-charge, if any: Provided that nothing herein contained shall repeal or interfere with the provisions contained in the first section of the said Act (six and seven William the Fourth, chapter ninety-six), defining the net annual value of the hereditaments to be rated. Definition of gross estimated rental.

XVI. The committee by their order may from time to time enlarge the time within which the first valuation lists under this Act shall be made by the overseers of all or any of the parishes in the union, and for ensuring a uniform and correct valuation of every parish in the union may direct that any existing valuation of the rateable hereditaments in any parish be revised, in whole or in part, or a new valuation of such hereditaments be made by the overseers, or the committee may, with the consent of the board of guardians of the union, after notice shall have been sent to every guardian thereof, in any case appoint some person for either of the purposes aforesaid, and may direct such person to make and sign the valuation list instead of the overseers, and every valuation list so made and signed shall be delivered by such person to the overseers of the parish to which the same relates. Committee may enlarge the time for making first valuation lists, and may give directions concerning valuations and valuation lists, and may appoint persons to make the same.

XVII. The valuation list for each parish made and signed by the overseers, or delivered to them, as herein-before provided, Valuation lists to be deposited for inspection,

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Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 15.

Note.

This section applies only to the first lists made under the Act. Subsequent valuations may be directed by the committee under sect. 26, *post*, in the same manner as are directed by this section. Sect. 16.

Note.

The words in brackets are repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 17.

Note.

The place for the deposit of rate-books is regulated by the following statutes:—Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 13; Vestries Act, 1818 (58 Geo. 3, c. 69), s. 6; Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 33; Parochial Offices Act, 1861 (24 & 25 Vict. c. 125), s. 2; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 17 (8).

Notice of a poor rate is regulated by the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 1, as amended by the Parish Notices Act, 1837

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and afterwards transmitted to the committee.

shall be deposited by the overseers in the place in such parish in which rate-books are deposited or kept [and a copy of such valuation list shall be forthwith delivered to the board of guardians,] and the overseers shall give public notice of the deposit of such list on the Sunday next following the deposit of such list, and such notice shall be given in the same manner, and all persons assessed or liable to be assessed to the relief of the poor of such parish shall have the like right of inspecting, and of demanding and taking copies of and extracts from such list, as in the case of a poor rate allowed by the justices, and the overseers shall, at the expiration of fourteen days from the time of the notice given of the deposit of such list, transmit the same to the committee, and any overseer or other ratepayer within the union shall have the right of inspecting and taking copies of and extracts from any of the lists so transmitted.

Objections to valuation list.

XVIII. Any overseer or overseers of any parish in any union who shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union, or any person who may feel himself aggrieved by any valuation list on the ground of unfairness or incorrectness in the valuation of any

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Sect. 17. Note.

(1 Vict. c. 45), s. 2; and in parishes where there is no church, by the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 4.

Inspection of a poor rate is open to every inhabitant of a parish at all reasonable times on payment of one shilling, by the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 2; and every person rated may take copies of or extracts from a rate without payment under the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 5.

Sect. 18. Note.

The powers, duties, and liabilities of the overseers with respect to objections by them in respect of the valuation list in rural parishes having a parish council are transferred to the parish council by sect. 6 (1) (c.) (i.) of the Local Government Act, 1894.

By the same sub-section the powers, duties and liabilities of the overseers with respect to appeals in respect of the poor rate are also transferred to the parish council, and it will be advisable for any person desirous of appealing against a rate, and of making the parish council respondents to such appeal, to give to the parish council as well as to the overseers the notice of objection to the valuation list which it is provided by this section shall be given to the overseers.

By the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 1, notice of objection to the valuation list by an aggrieved ratepayer may be given *at any time*, and consequently the necessity of giving notice of objection within the limited time prescribed by this section is removed, except so far as relates to objections on the ground of the under-valuation of third persons, as to which see *Reigate Union* v. *S. E. R. Co.*, [1894] 1 Q. B. 411; 63 L. J. M. C. 65; the giving of such notice is also made a condition precedent to appealing against a poor rate made in conformity with such list. Moreover, if the objector desires to appeal against the

hereditaments included therein, or on the ground of the omission of any rateable hereditament from such list, may at any time after the deposit as aforesaid of such list, and before the expiration of twenty-eight days after the notice of the deposit as aforesaid, give to the committee and to the overseers a notice in writing of his objection, specifying the grounds thereof, and where the ground of any objection shall be unfairness or incorrectness in the valuation of any hereditament in respect of which any person, other than the person objecting, is liable to be rated, or the omission of such hereditament, also give notice in writing of such objection, and of the ground thereof, to such other person. Sect. 18.

XIX. The committee shall hold such meetings as they may think necessary for hearing objections to the valuation lists, and shall, twenty-eight days at least before holding every meeting for hearing objections to valuation lists, other than meetings by adjournment, cause notice of such meeting to be given to the overseers of the several parishes to which such lists relate, and such overseers shall, on the Sunday next following the receipt of such notice, publish the same in the manner in which notice of a rate allowed by justices is by law required to be given, and the committee may at any such meeting hear and determine such objections, or may from time to time adjourn any such meeting, and adjourn or postpone the hearing or further hearing and determination of any such objections, and may, where they think fit, direct notice of any such objections to be given by the overseers or by the persons objecting to third parties before the further hearing thereof; but the committee shall not be required to hold a meeting for hearing objections to the valuation list of any parish, unless such notice in writing as herein-before mentioned of some objection or objections thereto have been given to the committee; and where a meeting is holden for hearing objections to the valuation list of any parish, the committee shall not hear any objection to such valuation list unless such notice as aforesaid of such objection Committee to hold meetings to hear objections.

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rate, his notice of objection must contain all the grounds of appeal, although on some of those grounds the assessment committee may be unable to give relief, *e.g.* that the objector is not rateable at all (*Williams* v. *Bedminster Union*, 30 L. T. (N. S.) 710; 39 J. P. 117; *Reg.* v. *Lancashire JJ.*, [1874] 43 L. J. M. C. 116; S. C., *Salford (Overseers)* v. *Salford JJ.*, 30 L. T. (N. S.) 403). Sect. 18. Note.

For the statutes regulating notice of a rate see note to sect. 17, *supra*. Sect. 19. Note.

The committee in hearing objections are not a court exercising judicial functions, and an objector may appear before the committee either in person or by an agent (*Reg.* v. *St. Mary Abbotts, Kensington (Assessment Committee)*, [1891] 1 Q. B. 378; 60 L. J. M. C. 52; 64 L. T. 240; 39 W. R. 278; 55 J. P. 502).

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have been given to the committee and to the overseers; and where the ground of such objection is unfairness or incorrectness in the valuation of any hereditament of any other person than the person objecting, or the omission of such hereditament, also to such other person by the person objecting, except where the overseers, by themselves or any other person on their behalf, and in the case aforesaid such other person as aforesaid, by himself or any other person on his behalf, consent to the hearing of such objection, and in such case the committee may, if they see fit, hear the same; and where the committee see fit to hear the same they shall act in relation thereto in like manner as if notice of such objection had been duly given.

Committee may correct valuation lists, and when corrected shall approve the same.

XX. The committee may, whether any objection be or be not made to any such valuation list, and either before or after any meeting for hearing objections, make such alterations in the valuation of any hereditaments included in any valuation list, and insert therein any rateable hereditament omitted therefrom, and make such corrections in names, descriptions, and particulars in any valuation list, and upon such information, as to them may seem sufficient, and may, with the consent of the guardians

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Sect. 20.

Note.

The consent of the guardians to the appointment of a valuer must be obtained in the manner prescribed by sect. 16, *ante*. The expenses of making the valuation are to be paid as provided by sect. 39, *post*. The form and matter of the valuation must be in conformity with the provisions of sect. 4 of the Union Assessment Committee Act Amendment Act, 1864 (27 & 28 Vict. c. 39). The power to appoint a valuer under this section does not enable the assessment committee to refer to arbitration the value of any particular hereditaments (*Leicester Waterworks Co.* v. *Nuttall*, 4 Q. B. D. 18; 39 L. T. 624; 43 J. P. 207).

A valuer may also be appointed by the guardians to assist the committee, as provided by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 32.

The committee must not approve the list under this section before the expiration of the twenty-eight days after notice of the deposit given by the overseers prescribed by sect. 18, *ante*; if they do, the valuation list will be void and any rate made in conformity with it will be liable to be quashed (*Reigate Union* v. *South Eastern Rail. Co.*, [1894] 1 Q. B. 411; 63 L. J. M. C. 65; 58 J. P. 264). In a previous case, however, decided under the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), which by sect. 7 adopts sects. 18—21 of this Act, subject to the alterations made by that Act, it was held that delay in making, depositing, transmitting, and approving the valuation list within the times prescribed by sect. 42 of that Act did not make the list a nullity, such provisions being directory only and not imperative (*Reg.* v. *Ingall*, 2 Q. B. D. 199; 46 L. J. M. C. 113; 35 L. T. (N. S.) 552; 25 W. R. 57; 41 J. P. 181); and that decision was approved and followed in *Reg.* v. *London JJ.* or *London County Council* v. *St. George's Union*, [1893] 2 Q. B. 476; 63 L. J. Q. B. 148; 69 L. T. 682; 58 J. P. 69; affirmed on another point in the House of Lords, [1894] A. C. 600; 64 L. J. Q. B. 48; 71 L. T. 409.

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as aforesaid, appoint or employ a person to survey and value the rateable hereditaments comprised in any such valuation list or any of them, or omitted therefrom, or may take such other means as they may think necessary for ascertaining the correctness thereof; and when the committee have heard and determined all such objections as aforesaid, and have made such alterations, insertions, and corrections in any valuation list as to them may seem proper, they shall approve the same under the hands of three members of the committee present at the meeting at which the same is approved, with the date of such approval.

Valuation list when altered to be deposited for inspection, &c.

XXI. Where the committee make any alteration in the valuation of any hereditaments included in, or insert therein any rateable hereditament omitted from, any such valuation list, they shall cause such valuation list, with such alteration or insertion, to be deposited for inspection in manner herein-before provided, concerning the valuation list made by or delivered to the overseers, and shall cause the like notice to be given of such deposit as is required in the case of a valuation list so made or delivered as aforesaid, and shall appoint a day, not less than seven days nor more than fourteen days from the re-deposit of such valuation list, for the hearing of any objections to the valuation list as so altered; and when the committee have heard and determined any such objections, or have made such further alterations, insertions, and corrections in such valuation list, they shall approve the same in manner herein-before provided.

Sect. 21.

Note.

As to the deposit and notice of deposit of the valuation list see sect. 17, *ante*; as to approval of corrected list see sect. 20, *ante*.

The duty of re-depositing the list under this section after alteration by the assessment committee under sect. 20, and of giving the notices of such re-deposit, lies upon the overseers as in the case of the original deposit of the list under sect. 17, and is not to be performed by the clerk of the assessment committee (*Reg.* v. *Chorlton-on-Medlock*, 35 L. J. M. C. 56; 12 L. T. (N. S.) 581). If the valuation list is not re-deposited, as prescribed by this section, after alteration by the committee under sect. 20, it is invalid, and any contribution order made upon it is invalid also, and will be quashed on *certiorari* (*Reg.* v. *Chorlton Union*, L. R. 8 Q. B. 5; 42 L. J. M. C. 34; 37 J. P. 149). But it is not necessary to re-deposit the list when an alteration has been made in it by the committee in consequence of an objection made under 27 & 28 Vict. c. 39, s. 1, after the list had been approved by the committee (*Reg.* v. *Edmonds*, L. R. 9 Q. B. 598; 43 L. J. M. C. 156; 31 L. T. (N. S.) 237; 38 J. P. 727).

It has been held that after the re-deposit of the list, the committee may make further alterations in respect of assessments therein which are not the subject of objection (*South Eastern Ry. Co.* v. *City of London Union*, Ryde's Rat. App. (1891-3) 41).

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If on appeal a rate is amended the valuation list to be altered.

XXII. In case any ratepayer shall under the existing law appeal to the special sessions or quarter sessions against any rate made for the relief of the poor in any parish, and the result of such appeal shall be to amend the rate appealed against, the assessment committee shall alter the valuation list of the said parish in conformity with the decision so made.

Custody, &c. of valuation list after approval.

XXIII. Every valuation list, when approved by the committee, shall be delivered to the overseers of the parish to which the same relates, and shall be preserved at the like place and in the like custody, and be subject to the like resort thereto, and be delivered over from time to time in like manner, as the books are wherein rates and assessments for the relief of the poor for the same parish are entered, and shall be produced by the overseers before the justices, upon application, for the allowance of rates, and at the special or general or quarter sessions when any appeal is to be heard, and also at such times and places as the committee may from time to time direct.

Lists to be deemed valuation lists in force.

XXIV. Every valuation list approved by the committee, and delivered to the overseers of the parish to which the same relates, shall, with and subject to the alterations and additions for the time being made therein or thereto by any supplemental valuation lists so approved and delivered, be the valuation list in force in such parish, except in the case of any parish, as is herein-after referred to, in which the poor rate, or assessment

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Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Appeals against a rate may be brought to special sessions under the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), and to quarter sessions under the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 5, as amended by the Poor Relief Act, 1743 (17 Geo. 2, c. 38), and the Poor Rate Act, 1801 (41 Geo. 3, c. 23).

Sect. 23.

Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

This section is amended by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 30, which provides that after final approval of the list, the totals in the columns are to be cast up by the committee, who shall retain the original list for their own use, and deliver a fair copy to the overseers; and by sect. 31 of the same Act certified copies of the list are made available when the original is lost, injured, or destroyed. For the statutes regulating the deposit and custody of rate-books, see note to sect. 17, *ante*.

Sect. 24.

Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Provision is made for making supplemental valuation lists by sects. 25 and 26, *post*, and new valuation lists by sect. 26, *post*. Additional alterations may also be made at any time in the existing valuation list as the result of objections under 27 & 28 Vict. c. 39, s. 1.

For the provision as to parishes under local Acts see sect. 29, *post*.

for the poor rate, is made under the authority of a local Act, until a new valuation list in substitution for the same be approved and delivered in like manner. Sect. 24.

Overseers to prepare supplemental valuation lists in case of additions to or alterations in the rateable property of the parish.

XXV. When and so often as any property not included in the valuation list in force in any parish becomes rateable, or where, by reason of any alteration in the occupation of any property included in such list, such property becomes liable to be rated in parts not mentioned in such list as rateable hereditaments and separately valued therein, and when and so often as it shall appear to the overseers that any rateable property included in such list has been increased or reduced in value since the valuation thereof, whether by building, destruction of building, or other alteration in the condition thereof or otherwise, the overseers of the parish in each of the cases aforesaid shall, as soon as conveniently may be, make a supplemental valuation list showing the annual rateable value according to the judgment of the overseers of the property so become rateable, or of the parts so become liable to be rated separately, or of the property so increased or reduced in value, as the case may be.

Committee may from time to time

XXVI. The committee by their order may from time to time, where they see fit, upon the application of any person aggrieved

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Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 25.

Note.

Further provision is made by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 38, for the rating of new houses and buildings occupied since the making of the valuation list which were incomplete when such list was made, and for including such houses and buildings in a supplemental list. Houses and buildings newly erected and fit for occupation, but not yet occupied, are "rateable hereditaments" within the meaning of this section and of sects. 14 and 20, *ante*, and ought to be inserted in the valuation list (*Reg.* v. *Malden* or *Malden* v. *Kingston*, L. R. 4 Q. B. 326; 10 B. & S. 323; 38 L. J. M. C. 125; 33 J. P. 645).

The words "or otherwise" in this section are properly to be construed as referring to an increase or reduction of value by methods *ejusdem generis* with those particularly specified; *per* Grove, J., in *Reg.* v. *East & West India Docks*, 11 Q. B. D. at p. 728.

The payment of rates by successive occupiers and by persons entering into occupation of premises which were unoccupied at the time the rate was made is provided for by the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 16; and by occupiers quitting premises during the currency of a rate by the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 3.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77. Sect. 26.

Note.

The mode of obtaining the consent of the guardians to the appointment of a valuer is prescribed by sect. 16, *ante*. The expenses of the valuation are provided for by sect. 39, *post*, and

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direct new valuation, and new or supplemental valuation lists.

by the valuation list in force in any parish, or where they themselves think the same expedient, direct a new valuation of all or any of the rateable hereditaments in such parish, and a new valuation list in substitution for such valuation list as aforesaid, or a supplemental list in substitution for any part thereof or in addition thereto, to be made by the overseers, or the committee may, with such consent as aforesaid, appoint a person for such purposes; and the committee may, in directing such new valuation, and the making of such new or supplemental valuation list, give and make all such or the like directions and provisions in relation thereto as they are authorized under this Act to give and make in relation to the valuations and valuation lists first directed and authorized to be made under the Act.

Provisions as to first valuation lists to apply to new and supplemental lists.

XXVII. All the provisions of this Act in relation to signature, deposit, objections, approval, and otherwise concerning the valuation list first directed and authorized to be made under this Act of the rateable hereditaments in any parish shall be applicable to every new or supplemental valuation list to be made under this Act.

After a valuation list is approved no rate to be of force unless made according to such list.

XXVIII. [In every parish where a valuation list under this Act has been approved and delivered to the overseers, no rate for the relief of the poor, or other rate which by law is required to be based upon the poor rate, shall be of any force, unless the hereditaments included in such rate, except as hereinafter provided, be rated according to the annual rateable value thereof appearing in the valuation list in force in such parish; and instead of the declaration required by the second section of

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Sect. 26. Note.

by 27 & 28 Vict. c. 39, s. 7. The particulars to be included in the valuation are prescribed by 27 & 28 Vict. c. 39, s. 4.

A survey and valuation may also be made by the guardians under the order of the Local Government Board by virtue of the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 3.

Sect. 27. Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

As to signature of the list see sects. 14, 16, *ante*, and 31 & 32 Vict. c. 122, s. 30; as to deposit see sect. 17, *ante*; as to objections see sects. 18, 19, *ante*, and 27 & 28 Vict. c. 39, s. 1; as to approval see sects. 20, 21, *ante*.

Sect. 28. Note.

The words inclosed within brackets are repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

The provisions of this section do not apply to rates made under a local Act; see sect. 29, *post*.

An overseer wilfully omitting to make the declaration required by this section, or making a false declaration, is made liable to a penalty by 27 & 28 Vict. c. 39, s. 11.

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6 & 7 Will. 4, c. 96, s. 2.

the said statute of the sixth and seventh years of William the Fourth, chapter ninety-six, the overseers shall, before the rate shall be allowed by the justices, sign a declaration according to the form set forth in the schedule hereunto annexed :] Provided always, that where by reason of any alteration in the occupation of any property included in such list such property has become liable to be rated in parts not mentioned in such list as rateable hereditaments, and separately rated therein, such parts may, where a supplemental valuation list showing the annual rateable value of such parts has not been approved and delivered as herein-before required, and whether such list has or has not been made, be rated according to such amounts as shall be fair apportioned parts of the annual rateable value appearing in such valuation list in force as aforesaid of the hereditaments out of which such parts have been constituted.

Saving for places under local Acts.

XXIX. The provisions of section twenty-eight shall not apply to any poor rate made by any vestry, trustees, guardians, commissioners, overseers, or other persons authorized by any local Act to make the rate for the relief of the poor in any parish, or the assessment on which such rate is made.

In computing amount of contributions

XXX. When the assessment committee for any union shall have approved valuation lists for all the parishes comprised

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Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

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Note.

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Note.

The amounts which the several parishes were liable to contribute to the common fund of the union were, as provided by 4 & 5 Will. 4, c. 76, s. 28, originally based upon an average of the expenses of each parish for the preceding three years. That system was amended by 24 & 25 Vict. c. 55, s. 9, which provided that the several parishes should contribute in proportion to their annual rateable value; and by sect. 10 such annual rateable value was to be taken from the valuation upon which each parish was assessed to the county rate, or where there was no county rate, to the borough or ward rate, or rate in the nature of a county rate. Although the provisions of 24 & 25 Vict. c. 55, ss. 9, 10, are not expressly repealed, they are in effect repealed by this section, which makes the valuation list which is approved by the assessment committee the basis for contribution orders.

The Crown not being named in the statute of Elizabeth is not bound by it, and consequently property occupied by the Crown or the servants of the Crown is not rateable (*Jones* v. *Mersey Docks Co.*, 11 H. L. C. at p. 463). This exemption from rateability has been extended by a series of judicial decisions from what is strictly "Crown property," such as royal palaces and parks, &c., to what is described in this section as "Government property," that is property occupied for the purposes of the government of the country, including under that head both the police and the administration of justice. Thus the exemption applies not only to property occupied for such purposes by the servants of the great departments of State, such as the Post Office (*Smith* v. *Birmingham*, 7 E. & B. 483), the

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to common fund the annual rateable value to be taken from approved valuation lists.

within such union, the guardians of such union, in computing the amount of contribution to the common fund for the several parishes, shall thenceforward take the annual rateable value of the property in such parishes respectively from the valuation lists for the time being lastly approved of for such parishes respectively, any statute to the contrary notwithstanding: Provided that in case any parish comprised in any union shall receive any sum of money as a contribution in aid of the poor rate of such parish, for or in respect of government property within such parish and used for public purposes, the annual value of such property, according to the estimate (if any) of such value on which the amount of the sum of money so received is computed, or, if there be no such estimate, then the annual value of such property, estimated in the mode provided by the Act sixth and seventh William the Fourth, chapter ninety-six, for making an estimate of the annual rateable value of property liable to be rated to rates for the relief of the poor, shall be included by the overseer or overseers in the valuation list of such parish, and shall be added to the annual rateable value of the property in such parish in computing the amount of contribution to the common fund for the several parishes in such union.

6 & 7 Will. 4, c. 96.

Copy of valuation list to

XXXI. The committee shall cause a copy of the valuation list for the time in force for every parish in the union to be

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Note.

Horse Guards (*Lord Amherst* v. *Lord Somers*, 2 T. R. 372; *Leith Harbour Commissioners* v. *Poor Inspector*, L. R. 1 H. L. Sc. 17), or the Admiralty (*Reg.* v. *Stewart*, 8 E. & B. 360; 27 L. J. M. C. 81; 4 Jur. (N. S.) 187; 22 J. P. 480), but also to property occupied by the local police (*Lancashire JJ.* v. *Shelford*, E. B. & E. 225), to county buildings occupied for the assizes, and for judges' lodgings (*Hodgson* v. *Carlisle Local Board*, 8 E. & B. 116), or as a county court (*Reg.* v. *Manchester*, 3 E. & B. 336), or a gaol (*Reg.* v. *Shepherd*, 1 Q. B. 170). Certain Government property is expressly exempted by statute, *e.g.*, Volunteer storehouses provided under the Volunteer Act, 1863 (26 & 27 Vict. c. 65, s. 26); and in other cases such property is by statute declared to be rateable, but the assessment of the value of such property is limited to the value at which it was assessed at the time it became vested in the Government authorities, *e.g.*, lands vested in the Secretary for War under 23 & 24 Vict. c. 112 and 35 & 36 Vict. c. 68, and lands vested in the Postmaster-General under the Telegraph Acts (31 & 32 Vict. c. 110, and 32 & 33 Vict. c. 73).

Notwithstanding these provisions the Government, in some parishes, make voluntary payments to the overseers by way of contribution to the rates in respect of property occupied for Government purposes, and these are the contributions referred to in this section.

Sect. 31.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

This section is altered by sect. 30 of the Poor Law Amendment Act, 1868 (30 & 31 Vict. c. 122), which provides that the original list shall be retained by the guardians, and fair copies supplied to the overseers.

made and deposited at the board room or other convenient place to be appointed by the board of guardians in the custody of the clerk, which copy shall be open at seasonable times to the inspection of any of the guardians of the union, and of any overseer of any parish within the union, without charge, and of any ratepayer within the union on payment of one shilling, such fee to be carried to the account of the common fund.

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be deposited in board room.

XXXII. If the overseer or overseers of any parish in any union shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union, whether it be on the ground that the rateable hereditaments comprised in the valuation list of such parish are valued at sums beyond the annual rateable value thereof, or on the ground that the rateable hereditaments comprised in the valuation list of some other parish in such union are valued at sums less than the annual rateable value thereof, it shall be lawful for such overseer or overseers, with the consent of a vestry summoned for the purpose of considering the expediency of giving such consent, to appeal to the quarter sessions for the county or borough in which the greatest number of parishes belonging to the union is situate, or, in case the number of parishes in any two or more such jurisdictions is equal, to the quarter sessions for the county or borough having jurisdiction over the parish

Appeal against valuation list.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Sect. 32.

Note.

The right of appeal given to overseers by this section is, in the case of rural parishes having a parish council, transferred to the parish council by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1); and by sect. 33 of that Act an order may be made by the Local Government Board transferring, among other rights and duties of overseers, this right of appeal to the council of any borough or urban district, or to some other representative body within the borough or district.

This section provides in one case that "fourteen clear days' notice" and in another that "fourteen days' notice" shall be given of the intention to appeal. "Fourteen days' notice" is satisfied by reckoning one day inclusive and the other exclusive (*Rex* v. *Yorkshire* (*W.R.*) *JJ.* [1833], 4 B. & Ad. 685). "Fourteen clear days' notice" requires that the day of serving the notice and the first day of sessions should both be excluded (*Rex* v. *Herefordshire JJ.* [1820], 3 B. & Ald. 581).

It is doubtful whether the provision in this section that the appeal shall be brought to the quarter sessions for the county or borough in which the greatest number of parishes belonging to the union is situate, is superseded by the enactment in sect. 27 of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), that "where a union extends into several distinct jurisdictions, every matter, act, charge, or complaint by which the guardians thereof are affected, or in which they have any interest, shall for the purposes of jurisdiction be deemed to arise or exist equally throughout the union" (see *Reg.* v. *Staffordshire JJ.* [1872], L. R. 7 Q. B. 288; 41 L. J. M. C. 78; S. C. *Dudley Union* v. *Wolverhampton Union*, 25 L. T. (N. S.) 829; *Reg.* v. *Eaton*, 8 Q. B. D. 158; 46 J. P. 229).

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in which the workhouse of the union is situate, at the sessions to be holden after the expiration of a month after the allowance of and deposit of such valuation list as aforesaid, against such valuation list of the parish which shall appear to be over-valued or under-valued; and if in any case any such overseer or overseers appeal against the valuation list of any other parish on the ground that the rateable hereditaments in such list are valued at less than the annual rateable value thereof, such overseer or overseers shall give fourteen clear days' notice in writing previous to the first day of the said quarter sessions at which the appeal is to be made of the intention to appeal, and the grounds thereof, to the overseers of the poor of such parish, and to the guardians of the union comprising such parish; and if any overseer or overseers of any parish appeal against the valuation list of such parish on the ground that the rateable hereditaments in such list are valued beyond the annual rateable value thereof, such overseer or overseers shall give fourteen days' notice in writing previous to the quarter sessions at which the appeal is to be made of the intention to appeal, and the grounds thereof, to the guardians of the union in which such parish is situate, the said court shall be empowered to hear and determine such appeal, and either confirm such valuation list, or correct such irregularities or inaccuracies as shall be proved to exist therein as to them may appear fair and just; but no such valuation list shall upon such appeal be quashed or destroyed in regard to any other parish unless the court deem it necessary to proceed to the making of an entire new valuation list as herein-after provided.

Proceedings on appeals.

XXXIII. It shall be lawful for the court of quarter sessions upon any such appeal, instead of hearing the said appeal, to adjourn the same, and to order, upon the application of the appellant or respondent in such appeal, a survey or valuation of any of the parishes in respect of which such appeal shall be made, and to fix the next or some subsequent sessions for receiving such survey or valuation, and for hearing and determining such appeal: and such court shall also thereupon appoint a proper person to make such survey or valuation, and the person so appointed shall have power, with or without assistants, to enter upon and survey, measure, and value all the hereditaments liable to be assessed to the rates for the relief of the poor within the parish or parishes mentioned in such order, and such survey and valuation shall be reported to the quarter sessions on adjournment fixed as aforesaid for receiving the same, and the court then and there assembled shall hear and determine the said appeal in the manner herein-before set forth.

Sect. 33.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

"Such" appeal is an appeal against the valuation list under sect. 32, *ante*.

Sect. 34.

Costs of new valuation and appeal.

XXXIV. The charges and expenses of any such survey and valuation so ordered shall be deemed costs in such appeal, and abide the event thereof, and the court before which any such appeal is heard and determined may order the costs in and about the appeal to be paid by either the appellant or respondent party, as they in their discretion may think fit; but where any appeal is made on the ground that the rateable hereditaments of any parish comprised in the valuation list of such parish are valued beyond the annual rateable value thereof, if the court on such appeal determine in favour of the appellants, such court shall ascertain the costs and charges incurred by such appellants in and about such appeal, and shall order the board of guardians of the union in which such parish is situate to pay the same to the appellants out of the money raised for the common fund for the several parishes in such union.

Act not to prevent composition for rates.

XXXV. Nothing herein contained shall be construed to prevent the owners of tenements from compounding for the rates to be assessed on the same, in such manner as they were by any statute or statutes enabled to do before the passing of this Act.

Saving of exemptions and special rules of rating, &c.

XXXVI. Nothing herein contained shall extend or be taken to render liable to be rated any property, or any person in respect of any occupation not now by law rateable of any

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Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Sect. 34.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

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The statutes alluded to in this section were sect. 19 of the Poor Relief Act, 1819 (59 Geo. 3, c. 12), and the Small Tenements Rating Act, 1850 (13 & 14 Vict. c. 99), of which the latter is repealed, and the former is superseded by the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41). See *West Ham* v. *Fourth City Mutual Building Society*, [1892] 1 Q. B. 654; 61 L. J. M. C. 128; 66 L. T. 350; 40 W. R. 446; 56 J. P. 438.

Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

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Note.

As examples of property totally exempted from being rated may be noted literary and scientific institutions under the Scientific Societies Act, 1843 (6 & 7 Vict. c. 36), and voluntary schools under the Voluntary Schools Act, 1897 (60 & 61 Vict. c. 5), s. 3; of property partially exempted, lands vested in the Secretary for War under 23 & 24 Vict. c. 122, s. 33; property vested in the Postmaster-General under the Telegraph Acts, 1868 and 1869 (31 & 32 Vict. c. 110; 32 & 33 Vict. c. 73), and various canals under special Acts, see *Reg.* v. *Grand Junction Canal*, 7 W. R. 597; 23 J. P. 404; *Regent's Canal Co.* v. *St. Pancras*, 3 Q. B. D. 73; 47 L. J. M. C. 37; 37 L. T. 637; 26 W. R. 281; 42 J. P. 500.

Under the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 69), it has been held that property partially exempt from being rated

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property, or to deprive any property, or the occupier of any property, of the benefit of any exemption, in whole or in part, to which such property or occupier is now by law entitled, from any poor rate or other rate which by law is required to be based upon the poor rate, or to render liable to be rated, according to the annual rateable value thereof, any property which under any local Act or otherwise is entitled to be rated upon a fixed amount, or according to any special or exceptional principle of valuation, whether such property shall or shall not be included in any valuation list in force under this Act, or shall in anywise affect the provisions of "The Cambridge Award Act, 1856," or the Act of the seventeenth and eighteenth Victoria relating to the relief of the poor in the city of Oxford.

19 & 20 Vict. c. xvii.
17 & 18 Vict. c. ccxix.

Committee may allow compensation for returns, &c. and expenses.

XXXVII. The committee may allow such compensation for any returns, copies, or extracts, or any valuation, or valuation list, or other act, matter, or thing to be made or done in pursuance of their order, and such expenses connected therewith, as to the committee in each case seems just.

Remuneration to clerk and expenses of committee.

XXXVIII. The remuneration allowed by the committee to their clerk, and all expenses incurred by them for the common use and benefit of the several parishes within the union for which they are appointed, shall be paid by the guardians of the said union, and be charged upon the common fund thereof.

Sect. 36. Note.

must be entered in the valuation list at its true value, without reference to any privilege, although the rate made upon the property must be made according to the exceptions and privileges to which it is entitled (*Reg.* v. *Foundling Hospital*, L. R. 7 Q. B. 83; 41 L. J. M. C. 41; 25 L. T. (N. S.) 562; 35 J. P. 724).

Sect. 37. Note.

Guardians are not liable to pay expenses incurred by a valuer which have not been allowed by the assessment committee (*Richardson* v. *Madeley Union*, 46 J. P. 439), nor any other expenses beyond the amount allowed by the assessment committee (*Hill* v. *Hippisley*, Q. B. June 6th, 1865).

An assessment committee having given notice to the overseers of a parish to return a valuation list (under sect. 14 of this Act, *ante*) of their parish in ten days, proceeded, before the lapse of three months from their appointment, to appoint a valuer to make a valuation of the parish. Afterwards, and after the three months, the overseers returned a valuation list which was deemed unsatisfactory by the committee, and the valuer was directed to complete his valuation, which exceeded by more than one-sixth the amount of the valuation returned by the overseers. The court held that the expense of this valuation by the person appointed by the committee could not be charged against the parish under sect. 39, *post*, nor as compensation under this section (*Reg.* v. *Richmond*, 6 B. & S. 541; 34 L. J. M. C. 186; 29 J. P. 210).

Sect. 38. Note.

As to the clerk see sect. 10, *ante*.

Sect. 39.

Expenses of valuation, &c. when to be paid out of poor rates of parishes, and when out of common fund.

XXXIX. The expenses of making any valuation and valuation list of any parish, or any of such expenses, whether such valuation and valuation list respectively be made by the overseers, or by any person appointed by the committee, shall be charged upon the poor rates of such parish if the valuation made by direction of the committee shall exceed by one-sixth the amount of the valuation delivered to them by the overseers, and upon the common fund of the said union, if the valuation so made as last mentioned shall not exceed by one-sixth the valuation so delivered as aforesaid.

Penalty for non-attendance, &c. in obedience to order of the committee.

XL. Every person who wilfully refuses to attend in obedience to any lawful order of any such committee, or to give evidence, or refuses to produce any rate-book, assessment, or valuation which may be lawfully required to be produced before such committee, shall for every such offence be liable to a penalty not exceeding twenty pounds upon a summary conviction for the same before two justices of the peace ; and every person who wilfully injures, defaces, conceals, or destroys such rate-book, or who upon any examination before any such committee wilfully gives false evidence, shall be deemed guilty of a misdemeanour.

Injuring rate-books, &c. a misdemeanour.

Authentication and service of orders and notices of the committee.

XLI. Every order and notice made or given by the committee under this Act may be in writing or print, or partly in writing and partly in print, and shall be sufficiently authenticated if signed by their clerk, and may be served by the same or a copy thereof being delivered personally or sent by the post to the party on or to whom such order or notice purports to be made or given, or by being delivered at his usual place of abode

Service of notices, &c. on the committee.

XLII. Any notice or statement required to be served upon the committee may be served by being left at the office of the clerk to the board of guardians, or sent through the post office, addressed to the committee at such clerk's office, or by being delivered personally to their clerk, or at his usual place of abode.

Sect. 39. Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

This section is supplemented by 27 & 28 Vict. c. 39, s. 7, which provides for payment of the expenses of a valuation and valuation list made by overseers, expenses which this section, by reason of its faulty grammar, omitted to provide for.

Sect. 40. Note.

Monetary penalties for wilful or negligent injury, &c. to parish books or documents are imposed by the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 6.

Sect. 41. Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

For what is now included in "an expression referring to writing" in an Act of Parliament see the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 20.

Sect. 42. Note.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Sect. 43.

Form of poor rate.

6 & 7 Will. 4, c. 96.

XLIII. In every parish, until a valuation list has been approved, and delivered to the overseers under this Act, every rate made for the relief of the poor in such parish shall be made in the form and contain the particulars required by the said Act of the sixth and seventh years of King William the Fourth; and after such valuation list has been so approved and delivered, every such rate, except in any parish where the poor rate or the assessment for the same is made under the provisions of a local Act as aforesaid, shall show the annual rateable value of each hereditament comprised therein, according to the valuation list in force in such parish.

Provisions concerning the assessment, &c. of poor rates to be applicable to rates made according to this Act.

XLIV. All the powers, authorities, provisions, clauses, and regulations, now in force relating to the assessment, collection, and levying of poor rates (save so far as the same are hereby repealed or altered) shall be good, valid, and effectual for the purposes of assessing, levying, collecting, and enforcing the payment of such rate and for carrying this Act into execution.

Power for unions under local Acts or 22 Geo. 3, c. 83, to be included in this Act.

XLV. And whereas there are divers unions or incorporations for the relief of the poor formed under local Acts, and under the Act of the twenty-second year of King George the Third, chapter eighty-three, which may desire to adopt the provisions of this Act: Be it enacted, that any such union or incorporation, on resolution to that effect of a majority, at two successive meetings of the body, having under the constitution of such union or incorporation the management of the relief of the poor within the same, may, by writing under the hand of the presiding chairman of the second of such meetings, apply to the Poor Law Board to be included in this Act; and such union or incorporation, upon the consent of the Poor Law Board being given to such application under its seal, shall be so included; and such consent so signified shall be evidence that such application was in all respects duly made according to the provisions above mentioned; and such regulations shall thereafter be made from time to time by the said board, with the consent of such body, as may be necessary to render the provisions of this Act conformable with the provisions of the Act under which the said union or incorporation shall have been formed.

Extent of Act.

XLVI. This Act shall extend only to England.

Sect. 43.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

Since the passing of the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), a new form of rate has been substituted by the Local Government Order of 28th July, 1896, for the form in the schedule to 6 & 7 Will. 4, c. 96 (see Archbold's Poor Law, 15th ed., p. 1077).

Sect. 45.

Repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77.

Note.

Gilbert's Act (22 Geo. 3, c. 83) is repealed by the S. L. R. Act, 1871, and all the incorporations which were formed under that Act are now dissolved. By the Union Assessment Act, 1880 (43 & 44 Vict. c. 7), s. 2, this Act may be applied to single parishes under separate boards of guardians.

SCHEDULE. Schedule.

VALUATION LIST for [*the Parish or Place for which the List is made*] in the county of .

Name of Occupier.	Name of Owner.	Description of Property.	Name or Situation of Property.	Estimated Extent.	Gross estimated Rental.	Rateable Value.

Signed this day of

A. B. } Overseers of the Poor of
C. D. } the Parish aforesaid.

DECLARATION TO BE ADDED TO THE RATE.

We, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Union Assessment Committee Act of 1862, in force in this parish (*or* township), and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list.

} Churchwardens.

} Overseers.

Schedule. Note.

A new form of valuation list has been prescribed by the Local Government Board in their Order of 28th July, 1896, made in pursuance of the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), which so long as that Act is in force is to be used in substitution for the form in this schedule (see Archbold's Poor Law, 15th ed., p. 1077).

Although owners may still compound for the payment of rates (see sect. 35, *ante*), the true rateable value of the hereditaments compounded for is to be inserted in the column of the valuation list headed "Rateable value" without allowance or deduction in reference to the composition under which the owner pays the rate. *Sunderland (Overseers)* v. *Sunderland Union*, 18 C. B. (N. S.) 532; 34 L. J. M. C. 121; 11 Jur. (N. S.) 688; 13 L. T. (N. S.) 239. That case was decided with reference to the repealed Small Tenements Rating Act, 1850 (13 & 14 Vict. c. 99), but is equally applicable to compositions made under the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41).

The declaration in this schedule is substituted by sect. 28, *ante*, for the declaration required by the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 2, wherever a valuation list under this Act is in force. It will not, however, be used where the rate is made under a local Act (sect. 29, *ante*). In parishes where the churchwardens have ceased to be overseers under the Local Government Act, 1894, they will not sign this declaration.

A penalty for omitting to make this declaration or for making a false declaration is imposed by 27 & 28 Vict. c. 39, s. 11.

JURIES ACT, 1862.

25 & 26 VICT. CHAP. 107.

An Act to give greater Facilities for summoning Persons to serve on Juries, and for other Purposes relating thereto.*

[7th August, 1862.]

[Preamble recited 6 Geo. 4, c. 50.]

[This Act is included here on account of the duties cast by it upon overseers.]

Short title of Act, &c.

[I.] This Act may be cited as "The Juries Act, 1862," and shall be construed with and as part of the said recited Act, herein-after termed the principal Act.

[Sect. 2. *Exemptions from serving on juries:* Repealed by the S. L. R. Act, 1875. The exemptions now in force are contained in the schedule to the Juries Act, 1870 (33 & 34 Vict. c. 77).]

[Sect. 3. *Provisions in 6 Geo. 4, c. 50, as to high constables, repealed:* Repealed by the S. L. R. Act, 1893.]

Clerk of the peace to issue precepts to parish officers by post.

IV. The clerk of the peace in every county, riding, and division in England and Wales shall on or before the twentieth day of July in every year issue his precept (in the form set forth in the schedule to this Act, or as near thereto as may be) to the churchwardens and overseers of the poor of the several parishes, and to the overseers of the poor of the several townships, within the county, riding, or division for which he acts, requiring them to make out before the first day of September then next ensuing a true list of all men residing within their respective parishes and townships qualified and liable to serve on juries according to the principal Act, and also to perform and comply with all other the requisitions in the said precepts contained, and shall forward the same, together with a competent number of printed forms of returns, for the use of the respective persons by whom such returns are to be made, by post, in a registered letter having the words "jury precept" legibly written or printed on the outside thereof, and addressed to the churchwardens and overseers as aforesaid; and every precept delivered or tendered as a registered letter at the address of the person to whom it is addressed, whether a receipt be given for the same or not, shall be deemed to have been served on the person to whom the same was so delivered or tendered, and, if delivered or tendered to any one churchwarden or overseer of a parish or township, shall be deemed to

* Throughout this Act for "churchwardens and overseers" in rural parishes now read "overseers" (Local Government Act, 1894, s. 5 (2) (*b*)).

have been served on the whole of the churchwardens and overseers of such parish or township. Sect. 4.

V. The provisions of the principal Act as to the expense of printing the warrants, precepts, and returns therein mentioned shall apply to the printing of the precepts and returns required by this Act; and the precepts and jury lists required to be posted and registered by this Act shall be posted and registered at the expense of the county, riding, or division. Precepts, &c. to be printed at the expense of the county, &c.

VI. After the receipt of such precept from the clerk of the peace, the duties of the churchwardens and overseers with reference to the jury lists, and the penalties to which they are liable for making default therein, shall be in all respects the same as if the words "clerk of the peace" had been substituted for the words "high constable" in the eighth section of the principal Act. Duties and liabilities of parish officers to continue.

[Sect. 7. *As to notices of special petty sessions:* Repealed by the S. J. R. Act, 1893.]

VIII. It shall be lawful for the justices of the peace then present to adjourn any special petty sessions under the provisions of the tenth section of the principal Act to any day within seven days thereafter, for the production of the jury list for any parish or township which, through the default of any churchwarden or overseer, has been omitted to be produced at such special petty sessions; and notice shall be sent by the clerk to such justices to such churchwardens or overseers, requiring them to produce the said list at such adjournment. Justices may adjourn petty sessions for the production of lists.

IX. It shall be the duty of the clerk to the justices of the peace in every petty sessional division in England and Wales to take charge of the jury lists of each parish and township within such division, when and as soon as they shall have been allowed and signed by the said justices, as by the principal Act provided, and to forward the same by the next available post in a registered letter or letters, with the words "jury list" legibly written or printed on the outside thereof, addressed to the clerk of the peace for the county, riding, or division, at his office, together with a schedule of the parishes and townships Justices' clerk to send jury lists to clerk of the peace.

The provisions herein mentioned are contained in 6 Geo. 4, c. 50, s. 9. Expenses incurred by parish officers in respect of jury lists are by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 60, payable out of the poor rates. Sect. 5. Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 32, the county justices (now the county council) are to make allowances to the clerks of justices in respect of their services in the revision and allowance of the jury lists. Sect. 9. Note.

Sect. 9.

for which jury lists have been then allowed, which schedule shall be signed by one of the said justices, and the clerk to the justices shall be entitled to the fee of two shillings and sixpence, to be paid out of the county rate, for the discharge of the duties hereby imposed upon him.

Clerk of the peace to deal with the jury lists as before.

X. The duties of the clerk of the peace with reference to the jury lists so forwarded to him by the clerks to the justices, and the penalties to which he is liable for making default therein, shall be in all respects the same as if this Act had not passed, and the said lists had been returned by the high constables to the court of quarter sessions under the provisions of the principal Act.

All jurors may be summoned by post.

XI. Any person liable to serve on any jury may be summoned as heretofore, or in the manner following; that is to say, the sheriff or other proper officer may make out a summons and affix the seal of his office thereto, and such summons, having the words "jury summons" legibly written or printed on the same side as the address, may be sent open by the post, prepaid, and directed to the person so required to serve as juror at his place of abode as described in the "jurors' book"; which said summons, together with a duplicate endorsed with the name and address of the juror to whom the original summons is directed, shall be taken to the postmaster of any post office where money orders are received or paid, within such hours as shall have been previously agreed upon at such post office, and under such regulations with respect to the registration of such summons and the fee to be paid for such registration (which fee shall in no case exceed twopence over and above the ordinary rate of postage) as shall from time to time be made by the Postmaster-General in that behalf; and in all cases in which such fee shall have been duly paid, the postmaster shall compare the address of the said summons with that of the duplicate, and on being satisfied that they are alike shall forward the summons to its address by the post, and shall return the duplicate to the party bringing the same, duly stamped with the stamp of the said post office; and the production by the party who posted such summons of such stamped duplicate shall be evidence of the summons having been delivered at the dwelling house of the person whose name and address is thereon endorsed, at the place mentioned in such endorsement, on the day on which such summons would, in the ordinary course of post, have been delivered, provided it shall appear that the same was not returned by the post office as undelivered; and any summons sent by the post as before mentioned, and not so returned as undelivered, shall be considered in all respects as duly served; and in the event of any person to whom any summons shall be addressed being ascertained to be dead, or to have permanently left the place to which such summons is addressed, the postmaster or letter,

carrier of the place in which the summons shall then be shall endorse thereon the reason of the non-delivery thereof, and forward the same in the usual course of post to the returned letter office in London, in order that it may be returned to the sender: Provided always, that when any summons shall be served by post under the provisions of this Act, two additional days shall be allowed for the transmission of such summons by post, over and above the number of days required by law for the service of a summons, before the day on which the juror is required to attend. Sect. 11.

XII. Whenever any fine shall be imposed upon any person for not attending as a juror in obedience to a summons in that behalf, it shall not be lawful to estreat the said fine until after the expiration of fourteen days, and in the meantime the proper officer of the court by which such fine was imposed shall forthwith, by letter, inform the said person of the imposition of such fine, and require him, within six days after the date of such letter, to forward him an affidavit of the cause, if any, of his non-attendance; and such officer shall, upon the receipt of any such affidavit, submit the same to the said court, or the judge or chairman who presided at the said court at the time when such fine was imposed; and such court, judge, or chairman shall have power to remit such fine. Fines not to be estreated for fourteen days, &c. Fines may be remitted upon cause shown.

XIII. The costs incurred by any sheriff in summoning jurors by post under the provisions of this Act, so far as the same shall not exceed the sum allowed to such sheriff, or his predecessor in office, on that account, in any one year within the three years immediately preceding the passing of this Act, may be included in his ordinary bill of cravings, and shall be allowed by the Treasury. Sheriffs to be allowed costs of summonses.

XIV. This Act shall not extend to Scotland or Ireland; and nothing in this Act contained shall alter or affect the mode of procedure heretofore pursued in the making out of jury lists or the summoning of jurors in the city of London. Extent of Act. Jury lists to be made, &c. in the city of London as before.

[Sect. 15. Repealed by the S. L. R. Act, 1875.]

SCHEDULE. Sect. 4.

Precept for returning List of Jurors.

County of
to wit.
Hundred of
} To the churchwardens and overseers of the poor of the parish [*or*, To the overseers of the poor of the township] of

You are hereby required to make out, before the first day of September next, a true list in writing in the form hereunto

Schedule.

annexed, containing the names of all men, being natural-born subjects of the Queen, between the ages of twenty-one and sixty, residing within your parish [*or* township] qualified to serve upon juries; that is to say, of every such man who has in his own name, or in trust for him, a clear income of ten pounds by the year in lands or tenements, whether of freehold, copyhold, or customary tenure, or of ancient demesne, situate in the said county, or in rents issuing out of any such lands or tenements, or in such lands, tenements, and rents taken together, in fee simple or fee tail, or for his own life, or for the life of any other person, and also of every such man who has a clear income of twenty pounds by the year in lands or tenements situate in the said county, held by lease for the absolute term of twenty-one years, or some longer term, or for any term of years determinable on any life or lives, and also of every such man who is a householder in your parish [*or* township], and is rated or assessed to the poor rate or to the inhabited house duty on a value of not less than twenty pounds [if in Middlesex thirty pounds]; and you are required to make out the said list in alphabetical order, and to write the christian and surname of every man at full length, and the place of his abode, his title, quality, calling, or business, and the nature of his qualification, in the proper columns of the forms hereunto annexed, according to the specimens given in such columns for your guidance.

And if you have not a sufficient number of forms you must apply to me for more; and in order to assist you in making out the list you are to refer to the poor rate, and you may, if you think proper, apply to any collector or assessor of taxes, or any other officer who has the custody of any house tax, land tax, or other tax assessment for your parish [*or* township], and take from thence the names of men so qualified: And in making such list you are to omit the names of all peers, all judges, all clergymen, all Roman Catholic priests who shall have duly taken and subscribed the oaths and declaration required by law; all ministers of any congregation of Protestant Dissenters whose place of meeting is duly registered, provided they follow no secular occupation except that of a schoolmaster, and produce to you a certificate of some justice of the peace of their having taken the oaths and subscribed the declaration required by law; all serjeants and barristers-at-law, all members of the Society of Doctors of Law, and all advocates of the civil law, if actually practising, and all attornies, solicitors, and proctors, if actually practising, and having taken out their annual certificates, and their managing clerks; all officers of the courts of law and equity, and of the admiralty and ecclesiastical courts, if actually exercising the duties of their respective offices; all coroners, all gaolers and keepers of houses of correction, and all subordinate officers of the same; all members and licentiates of the Royal College of Physicians in London,

Schedule.

all members of the Royal College of Surgeons in London, Edinburgh, and Dublin, and apothecaries certificated by the court of examiners of the Apothecaries' Company, and all registered pharmaceutical chemists, if actually practising as physicians, surgeons, or apothecaries, or pharmaceutical chemists respectively; all officers of the navy and army on full pay; the master, wardens, and brethren of the corporation of Trinity House of Deptford Strond, and their clerks, officers, and servants; all pilots licensed by the Trinity House of Deptford Strond, Kingston-upon-Hull, or Newcastle-upon-Tyne, and all masters of vessels in the buoy and light service employed by either of those corporations, and all pilots licensed under any Act of Parliament or charter for the regulation of pilots; all the household servants of Her Majesty; all commissioners of property and income tax; all officers of the Post Office; all officers of customs and excise; all sheriffs' officers, high constables, and parish clerks; all officers of the rural and metropolitan police; and also all persons exempt by virtue of any Act of Parliament, prescription, charter, grant, or writ.

And when you have made out such list you are authorized to order a sufficient number of copies thereof to be printed, the expense of which printing will be allowed you by the parish [*or* township]; and you are required, on the three first Sundays in September next, to fix a copy of such list, signed by you, on the principal door of every church, chapel, or other public place of religious worship within your parish [*or* township], and also to subjoin to every such copy a notice to the following effect, inserting the time and place, of which you shall be previously informed: "Take notice that all objections to the foregoing list will be heard by the justices in petty sessions on the day of September next, at the hour of at "; and you must allow any inhabitant of your parish [*or* township] to inspect the original list, or a true copy of it, during the three first weeks of September next, gratis; and you are also further required to produce the said list at such petty sessions, and there to answer on oath such questions as shall be put to you by Her Majesty's justices of the peace there present touching the said list; and these several matters you are in nowise to omit, upon the peril that may ensue.

Given under my hand at in the said county, the day of in the year .

Clerk of the Peace.

The Form of Precept in Wales is to be altered according to the Difference of Qualification.

POOR REMOVAL ACT, 1862.

25 & 26 VICT. CHAP. 113.

An Act to amend the Law relating to the Removal of poor Persons from England to Scotland, and from Scotland to England and Ireland. [7th August, 1862.]

[Preamble refers to the powers of removal of poor persons under 8 & 9 Vict. cc. 83, 117, and 10 & 11 Vict. c. 33.]

Warrant of removal from England to Scotland to be granted by two justices or a magistrate, and from Scotland to England or Ireland by the sheriff or two justices.

[I.] No application for a warrant ordering the removal from any place in England to Scotland, or in Scotland to England or Ireland, of any poor person who shall have become chargeable in such place shall be heard and determined in England, except by two or more justices in petty sessions assembled, or by a stipendiary magistrate or metropolitan police magistrate sitting in his court; and in Scotland, except by the sheriff [*or any two justices of the peace*] of the county in which the parish is situated to which such poor person may have become chargeable; which justices or magistrate, and sheriff [*or justices*] (as the case may be), shall see such poor person, or the person who is the head of the family proposed to be removed, and shall be satisfied that every person who is proposed to be removed by the warrant is in such a state of health as not to be liable to suffer bodily or mental injury by the removal.

Warrant to be granted on application of certain officers, and to contain certain particulars.

II. Such warrant of removal shall be granted in England only on the application of the relieving officer or other officer of the guardians of the union or parish, and in Scotland only on the application of the inspector of the poor of the parish or combination, or other officer appointed by the *parochial board*

Sect. 1.

Note.

By the Poor Law (Scotland) Act, 1898 (61 & 62 Vict. c. 21), s. 6, the power of granting warrants of removal under this Act shall in Scotland be exercisable by the sheriff only.

It would appear from the alteration of the period of residence from five to three years necessary to gain a settlement in Scotland made by s. 1 of 61 & 62 Vict. c. 21, that this section should be altered so as to be adapted to the change, making the period of residence in Scotland and Ireland both three years.

As to applications for a warrant of removal, see the Poor Law (Scotland) Act, 1845 (8 & 9 Vict. c. 83), s. 77; the Poor Removal Act, 1845 (8 & 9 Vict. c. 117), s. 1; and the Poor Removal Act, 1847 (10 & 11 Vict. c. 33), s. 1.

Sect. 2.

Note.

As to the abolition of the jurisdiction of justices in Scotland, see note to sect. 1, *supra*.

By the Local Government (Scotland) Act, 1894 (57 & 58 Vict.

of such parish or combination, where such poor person shall have become chargeable, and shall contain the name and reputed age of every person ordered to be removed by virtue of the same, and the name of the place in Scotland or England or Ireland (as the case may be) where the justices or magistrate, or sheriff [*or justices*], shall find such person to have been born, or to have last resided for the space of five years in the case of a poor person to be removed to Scotland, and three years in the case of a poor person to be removed to England or Ireland, and a statement of such examination having been made as to the state of health of every person ordered to be removed as aforesaid; and such warrant shall be addressed to the party applying for the same, and, in the case of a removal to Scotland, to the *parochial board* or inspector of the poor of the parish or combination to which such poor person is to be removed, and, in the case of a removal to England or Ireland (as the case may be), to the guardians of the union or parish to which such person is to be removed; and a copy shall be given by and at the cost of the person applying for such warrant to the person or the head of the family about to be removed by virtue of it: Provided, that in the case of any native of England, Ireland, or Scotland, where the justices or magistrate, or sheriff [*or justices*] (as the case may be), shall not be able to ascertain, upon the evidence before them, the place of birth or of such continued residence as aforesaid, they shall order the pauper to be removed to the port or union or parish in England or Ireland (as the case may be), or port or parish in Scotland, which shall, in the judgment of such justices or magistrate, or sheriff [*or justices*] (as the case may be), under the circumstances of the case be most expedient.

Order for removal when place of birth, &c. cannot be ascertained.

III. The person obtaining the warrant shall, at least twelve hours before the removal, send a copy of it by post to the inspector of the poor of the parish or combination in Scotland, and to the clerk of the board of guardians of the union or parish in England or Ireland (as the case may be), to which such poor person shall be ordered to be removed, and also a copy of the depositions taken in the case, if the same shall, at any time within three months from the date of the warrant, be required by any such board of guardians or parochial board.

Copy of warrant to be sent to parochial board, or clerk of guardians of union or parish, to which removal is to be made, &c.

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c. 58), ss. 21, 22, parochial boards are abolished, and their powers and duties transferred to parish councils.

By the Poor Law (Scotland) Act, 1898 (61 & 62 Vict. c. 21), s. 4, English and Irish born persons may become irremovable from Scotland by five years' residence of the nature therein described. By sect. 5 of the same Act an appeal lies to the Local Government Board of Scotland against the removal of a pauper from Scotland to England or Ireland under this Act, and no warrant may be executed for fourteen days, or, if an appeal is taken, until it has been disposed of.

Sect. 4.

Warrants shall order poor persons to be conveyed to the place mentioned in the warrants, &c.

IV. Such warrant shall order the removal of the poor person to be made to the place mentioned therein as aforesaid, and shall order the persons charged with the execution thereof to cause such poor person with his family (if any) to be safely conveyed to such place in England, Ireland, or Scotland (as the case may be), to be delivered, in the case of a removal to Scotland, to the inspector of the poor of the parish or combination, and in the case of a removal to England or Ireland, at the workhouse of such place or of the union or parish containing the port or place nearest to the place mentioned in the warrant as the place of the pauper's ultimate destination.

Master of workhouses and inspectors of poor to receive poor persons named in warrants, under penalty of 10*l*.

V. The master of the workhouse of the union or parish in England or Ireland, and the inspector of the poor of the parish or combination in Scotland, to which (as the case may be) such warrant is addressed, shall be bound to receive delivery of the poor person named in such warrant, under a penalty of ten pounds for each case of refusal; which penalty may be recovered by the person applying for such warrant by an action in any county court in England, or court of quarter sessions in Ireland, or sheriff court in Scotland, or other competent court having jurisdiction in the place where such master or inspector is resident at the time when such action is brought.

Parochial boards and guardians may forward the pauper to the place of destination, and recover the costs.

VI. If by reason of default of the guardians, inspector of the poor, or other person having charge of such warrant, or otherwise, the poor person named therein shall not be removed to the place of ultimate destination, the guardians of the union or parish in England or Ireland, or *parochial board* of the parish or combination in Scotland (as the case may be), to which he has been removed, may, if they think fit, cause the pauper to be removed forthwith to the place mentioned in the warrant, and shall be entitled to be reimbursed the costs incurred in such removal by the guardians or *parochial board* (as the case may be), or other person on whose application the warrant was obtained, such costs being the actual expense incurred in and about the conveyance and maintenance of each person so removed; which costs may, if not paid on demand, be recovered by an action in any county court in England or Ireland, or sheriff court in Scotland, or other competent court having jurisdiction in the place from whence the removal shall have taken place.

Sect. 4. Note.

Words in sect. 4 of the Poor Removal (No. 2) Act, 1861 (24 & 25 Vict. c. 76), very similar to those contained in the last two lines of this section referring to the conveyance of paupers to Ireland from England, were repealed by sect. 1 of the Poor Removal Act, 1863 (26 & 27 Vict. c. 89).

Sect. 6. Note.

For "parochial boards" now read "parish councils" (Poor Law (Scotland) Act, 1894 (57 & 58 Vict. c. 58), ss. 21, 22).

VII. It shall be unlawful to remove any woman, or any child under the age of fourteen, as a deck passenger in any vessel from England to Scotland, or from Scotland to England or Ireland, during the period from the first of October to the thirty-first of March following; and no regulation of any sheriff, magistrate, or justices authorizing such removal shall be henceforth legal.

Sect. 7.

Women and children not to be removed as deck passengers during the winter.

[Sect. 8. *So much of sect.* 77 *of* 8 & 9 *Vict. c.* 83, *as is inconsistent with this Act repealed.* Repealed by the S. L. R. Act, 1875.]

IX. Except so far as this Act shall alter the provisions of the said Acts, this Act shall be construed as part of the same.

Construction.

THE REVENUE ACT, 1863.

26 & 27 VICT. CHAP. 33.

An Act for granting to Her Majesty certain Duties of Inland Revenue; and to amend the Laws relating to the Inland Revenue. [29th June, 1863.]

[Only so much of this Act is included here as relates to the proceedings of union assessment committees.]

* * * * *

XXII. Whereas the assessment committee provided for by the County Rates Assessment Act,* section fifty-two, and by the Union Assessment Committee Act, 1862, respectively, are thereby empowered to require assessors, collectors, and other persons therein mentioned to make and transmit copies of or extracts from the books of assessment of any taxes or rates in their custody, and to produce such books as therein mentioned: Be it enacted, that nothing in the said Act contained shall extend to authorize or empower the said committee to require any assessor, collector, or other person employed in the assessment or collection of the income tax to make or transmit or to permit any other person to make copies of or extracts from any assessment, rate, or rate-book, or any document relating to

15 & 16 Vict. c. 81.

25 & 26 Vict. c. 103.

Union assessment committee not to require the production of documents relating to the assessment of

* *Sic.*, for "section fifty-two" read "1852."

For a similar enactment see the Poor Removal (No. 2) Act, 1861 (24 & 25 Vict. c. 76), s. 6.

Sect. 7. Note.

For the "said Acts" see recitals in preamble.

Sect. 9. Note.

The sections of the above-mentioned Acts which enable assessment committees to call for returns from collectors of public taxes are 15 & 16 Vict. c. 81, ss. 5, 7, and 25 & 26 Vict. c. 103, s. 13.

Sect. 22. Note.

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the income tax on concerns in the nature of trade.

the assessment or collection of the income tax upon profits of trade for or in respect of any quarries, mines, ironworks, gasworks, or other concerns in the nature of trade or manufacture chargeable under schedule (A.) of the Income Tax Acts, or to attend before the said committee to produce any such assessment, rate, or rate-book, or other such document as aforesaid, or to be examined by or before such committee touching or concerning the same.

* * * * *

VOLUNTEER ACT, 1863.

26 & 27 VICT. CHAP. 65.

An Act to consolidate and amend the Acts relating to the Volunteer Force in Great Britain. [21st July, 1863.]

[*Preamble.*]

[Only so much of this Act is included here as affects the rateability of volunteer storehouses.]

Short title.

[I.] This Act may be cited as "The Volunteer Act, 1863."

* * * * *

Appointment of storehouses for arms.

XXVI. The commanding officer of a volunteer corps or administrative regiment, receiving any arms, ammunition, or other stores supplied at the public expense or by subscription, shall, subject to the approval of the lieutenant of the county to which the corps belongs, or in which the headquarters of the administrative regiment are situate (as the case may be) appoint a proper storehouse for the depositing and safe keeping of such arms, ammunition, or stores. Every such storehouse

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The latter part of this section is repealed by 38 & 39 Vict. c. 17, s. 122.

Note.

Premises occupied by a volunteer corps for the purpose of the service of the corps, and being reasonably necessary for such service, are occupied by servants of the Crown for the purposes of the Crown, and, therefore, are exempt from rates; and the premises so exempt include not only such part of them as is a storehouse for the depositing and safe keeping of arms, ammunition, and stores within the meaning of this section, but all such other parts as are reasonably necessary for the service of the corps (*Pearson* v. *Holborn Union*, [1891] 1 Q. B. 389; 62 L. J. M. C. 77; 68 L. T. 351; 57 J. P. 169).

So also before this Act, a building intended for a depôt and storehouse of the arms and accoutrements of the London Militia, although erected by the Commissioners of the Lieutenancy of London and being their property, was not rateable (*Reg.* v. *Jay*, or *Jay* v. *Hammon*, 8 E. & B. 469; 27 L. J. M. C. 25; 4 Jur. (N. S.) 407).

shall be free from all county, parochial, or other local rates and assessments . . . Sect. 26.

* * * * *

XLIX. In this Act— Interpretation of terms.

The term "lieutenant" of a county includes vice-lieutenant, and, as to the city of London, the commissioners of lieutenancy for the same:

The term "volunteer" means a non-commissioned officer or private belonging to a volunteer corps, exclusive of the permanent staff thereof:

The term "person" includes (where the case requires) a body of persons, corporate or unincorporate:

* * * * *

The term "appointments" includes accoutrements and equipments of every kind other than clothing.

* * * * *

LII. Nothing in this Act shall apply to the Honourable Artillery Company of London. Saving for Artillery Company.

* * * * *

SUMMARY JURISDICTION ACT, 1863.

26 & 27 VICT. CHAP. 77.

An Act to amend the Law relating to the Jurisdiction of Justices residing or being out of the County for which they are Justices. [28th July, 1863.]

[Preamble recited 11 & 12 Vict. c. 43 (in this Act referred to as the principal Act), ss. 6, 35; 11 & 12 Vict. c. 42.]

[I.] The thirty-fifth section of the principal Act shall not apply to or control the sixth section of the same Act; and such last-mentioned section shall be construed as if the thirty-fifth section were not and never had been contained in the principal Act; . . . Construction of 11 & 12 Vict. c. 43, ss. 6, 35.

The latter part of this section referring to completed Acts and Orders is repealed by the S. L. R. Act, 1875. Sect. 1. Note.

POOR REMOVAL ACT, 1863.

26 & 27 VICT. CHAP. 89.

An Act for the further Amendment of the Law relating to the Removal of poor Persons, Natives of Ireland, from England. [28th July, 1863.]

[Preamble recited that it was advisable to amend the law for the removal from England of poor persons, natives of Ireland.]

[Sect. 1. *Repeal of part of sect.* 4 *of* 24 *&* 25 *Vict. c.* 76: Repealed by the S. L. R. Act, 1878.]

8 & 9 Vict. c. 117, s. 3, extended to Ireland.

II. Section three of the Act of the eighth and ninth years of Her Majesty, chapter one hundred and seventeen, shall be deemed to have applied and to apply to Ireland as well as to England.

[Sect. 3. *Repeal of sect.* 4 *of* 8 *&* 9 *Vict. c.* 117: Repealed by the S. L. R. Act, 1875].

Penalty for wilful desertion of pauper on the journey.

IV. Any person being employed in the execution of a warrant, duly issued under the authority of the said Acts or either of them, who shall wilfully desert any person mentioned therein before he or she shall have been conveyed to the place of destination, shall be guilty of a misdemeanour, and upon conviction thereof shall be liable to a fine not exceeding ten pounds, and, in default of payment, to imprisonment for a term not exceeding three months.

Penalty for violating 24 & 25 Vict. c. 76, s. 6.

V. Any person guilty of violating the provision contained in the sixth section of the Act of twenty-fourth and twenty-fifth Victoria, chapter seventy-six, shall be liable to a penalty not exceeding five pounds, to be recovered on a summary conviction before two justices or a police or stipendiary magistrate; and the offence shall be deemed to have been committed at the port where the poor person shall be landed.

Sect. 2. Note. For cases as to removal of Irish persons, see notes to the Poor Removal Act, 1845 (8 & 9 Vict. c. 117).

Sect. 4. Note. As to these warrants, see the Poor Removal Act, 1845 (8 & 9 Vict. c. 117), s. 3, and the Poor Removal (No. 2) Act, 1861 (24 & 25 Vict. c. 76), ss. 1—4.

Sect. 5. Note. The provision here mentioned refers to the prohibition against removing women and children as deck passengers during the winter.

Sect. 6.

New forms of warrants. 8 & 9 Vict. c. 117.

VI. Instead of the forms set forth in the schedule (C.) annexed to the said Act of the eighth and ninth Victoria, chapter one hundred and seventeen, the forms contained in the schedule hereunto annexed, or to the like effect, shall be sufficient in regard to poor persons removed to Ireland, with such changes in the names and descriptions of persons and places as the circumstances of the case may render necessary; and except where this Act makes any alteration it shall be deemed to be incorporated with Acts herein referred to.

Incorporation of Act.

Proceedings by board of guardians in Ireland aggrieved by removal.

VII. If the board of guardians of any union in Ireland think themselves aggrieved by the removal of any poor person, and if they forward to the Poor Law Commissioners for Ireland a statement of the grounds for concluding that such poor person is legally settled in any parish or township in England, or was not in law liable to be removed to Ireland, and if such board of guardians, or any person on their behalf, shall agree to pay all costs which may be incurred in any necessary preliminary inquiry, and in the appeal against the warrant for the removal of such poor person, such commissioners, if satisfied that it will be expedient to do so, may appoint some person to make a preliminary inquiry into the circumstances attending such removal, and after such inquiry may, if they think fit, appeal on behalf of the guardians so aggrieved to the court of quarter sessions held for the county or borough within which the parish or township from which such removal was made is situate, at any time within six months after such removal was completed; and such commissioners shall, at least twenty-one days before the holding of such sessions, send by post to the guardians or overseers on whose application such warrant was obtained notice in writing purporting to be signed by their secretary or chief clerk of their intention to appeal against such warrant, containing a statement in writing of the grounds of such appeal; and such court of quarter sessions shall hear and determine such appeal; and if the warrant of removal be reversed or declared illegal by such court, the guardians or overseers on whose application the same was obtained shall pay the costs and expenses incurred by or on account of such board of guardians, both for the preliminary inquiry and the appeal, and for the maintenance of such poor person, and for conveying such person back to the parish or township in England from which the removal was made; and if such guardians or overseers neglect or refuse to pay such costs and expenses within seven days after demand thereof, the guardians on whose behalf such appeal was made, or any person authorized by them, may recover the same as a debt in a court of law in England: Provided always, that the said guardians or overseers may, at any time after such notice of appeal, send by post notice in writing under the hands of any two or more of them to the said commissioners that they abandon such warrant, and thereupon such warrant shall be of no effect; and such guardians or

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overseers shall pay to the guardians on whose behalf such notice of appeal was given, or to some person authorized by them, the expenses incurred by them or on their account by reason of such warrant, and of the preliminary inquiry, and of any proceedings consequent thereon, and the actual expenses and charges of maintaining such poor person, and of conveying such poor person back to such parish or township; and if they do not pay the same within seven days after demand, the same may be recovered as a debt in a court of law in England: Provided also, that if on the hearing of the appeal judgment shall be given against the appellants, the respondents shall be entitled to recover the costs which they have incurred in and about the appeal from such appellants.

Sect. 6.

SCHEDULES.

I.

Form of Warrant where the Removal is to be made to the Place of Birth or Residence.

To the guardians of the poor of the[1] union [*or* parish], in the count of .
To the guardians of the poor of the[2] union, in the count of , in Ireland.

County[3] of (to wit.) At a petty session of Her Majesty's justices of the peace for the county[3] of , holden in and for the division of , in the said county[3] , at , on the day of in the year of our Lord one thousand eight hundred and sixty , before us, the undersigned, Her Majesty's justices of the peace for the said county.[3]

Whereas complaint is now made by the guardians of the poor of the union [*or* parish] in the count of , that[4] hath become and is now chargeable to the parish[5] [*of , in the said union]*:

And whereas the said[4] having been brought before us, and application having been made to us, in petty sessions assembled, by[6] the[7] [relieving] officer of the said guardians, on their behalf, we have made due examination, on oath, and find that the said[4] is of the reputed age of years, and was born in Ireland, [and last resided for the space of three years*] in the parish of , in the county of , now contained in the said union of[2] , and hath not a settlement in England, and is not otherwise exempt from removal from the said[1] union [*or* parish]* [and that he hath a wife, named of the reputed age of years, and[8] child named , of the reputed age of , which child[9] not exempt from removal from the said union [*or* parish]]:

And we have seen the said[4] †[and his said wife and

child], and are satisfied that the said[4] † [and his wife and child][9] in such a state of health as not to be liable to suffer bodily or mental injury by the removal:

These are, therefore, to require you, the guardians of the poor of the union [*or* parish], to cause the said[4] [with his family] to be safely conveyed to the said union of[2] , and to be delivered at the workhouse of such union.

Given under our hands and seals, at the sessions aforesaid.

(L.S.)
(L.S.)
(L.S.)

MEMORANDUM.

Where the warrant is issued by a police magistrate, this form must be modified accordingly.

[1] *Insert name of the union or parish in England.*
[2] *Insert name of the union in Ireland.*
[3] Riding *or* division, *or* city, *or* borough.
[4] *Name of pauper.*
[5] *Or* township.
[6] *Insert name of applicant.*
[7] *If the applicant be not a relieving officer, erase* relieving.
[8] *If more than one, insert the number.*
[9] *Insert* is *or* are.

* *Erase this passage when it is inapplicable.*

† *Where the head of a family is a woman, or a man without a family, this passage must be modified accordingly.*

Note.—A copy of this warrant is to be given to the person, if only one, or to the head of the family, if there be several persons about to be removed by virtue of it; and a copy is to be sent by post forthwith to the clerk of the board of guardians of the union in Ireland to which the poor person is ordered to be removed.

II.

Form of Warrant when the Removal is to be made to some Place other than that of the Birth or Residence.

To the guardians of the poor of the[1] union [*or* parish], in the count of .

To the guardians of the poor of the[2] union, in the count of , in Ireland.

County[3] of (to wit.) At a petty session of Her Majesty's justices of the peace for the county[3] of , holden in and for the division of , in the said county[3] , at , on the day of in the year of our Lord one thousand eight hundred and sixty , before us, the undersigned, Her Majesty's justices of the peace for the said county.[3]

Whereas complaint is now made by the guardians of the poor of the union [*or* parish] in the count of that[4] hath become and is now chargeable to the parish[5] [[a] of in the said union].

And whereas the said[4] having been brought before us,

Schedule II.

and application having been made to us, in petty sessions assembled, by [6] the [relieving[7]] officer of the said guardians, on their behalf, we have made due examination, on oath, and find that the said[4] is of the reputed age of years, and was born in Ireland, *but we are not able, upon the evidence before us, to ascertain the place in that country of h birth, or that he hath resided for the space of three years in any place therein,* and we find that he hath not a settlement in England, and is not otherwise exempt from removal from the said union [*or* parish]. †[And that he hath a wife named , of the reputed age of years, and[8] child named , of the reputed age of, which child [9] not exempt from removal from the said union [*or* parish]] :

And we have seen the said[4] †[and his said wife and child], and are satisfied that the said[4] [and his wife and child][9] in such a state of health as not to be liable to suffer bodily or mental injury by the removal :

These are, therefore, to require you, the guardians of the poor of the[5] union [*or* parish], to cause the said[4] [with his family] to be safely conveyed to the port of in the said union of,[5] and to be delivered at the workhouse of the said union,[10] which port is in our judgment, under the circumstances of the case, most convenient.

Given under our hands and seals, at the sessions aforesaid.

(L.S.)
(L.S.)
(L.S.)

MEMORANDUM.

Where the warrant is issued by a police magistrate, this form must be modified accordingly.

[1] *Insert name of the union or parish in England.*

[2] *Insert name of the union in Ireland.*

[3] Riding *or* division, *or* city, or borough.

[4] *Name of pauper.*

[5] *Or* township.

[6] *Insert name of applicant.*

[7] *If the applicant be not a relieving officer, erase* relieving.

[8] *If more than one, insert the number.*

[9] *Insert* is *or* are.

[10] *Where the pauper hath not resided twelve months in Ireland, erase the following words, and add,* to which port, we, with the consent of the guardians of the said union of [5] think it fit that the said [4] should be sent.

[a] *Erase this passage when it is inapplicable.*

* *Or erase the passage between asterisks, and add,* and has not been absent therefrom more than twelve months.

† *Where the head of the family is a woman, or a man without a family, this passage must be modified accordingly.*

Note.—A copy of this warrant is to be given to the person, if only one, or to the head of the family, if there be several persons about to be removed by virtue of it; and a copy is to be sent by post forthwith to the clerk of the board of guardians of the union in Ireland to which the poor person is ordered to be removed.

THE UNION ASSESSMENT COMMITTEE AMENDMENT ACT, 1864.

27 & 28 VICT. CHAP. 39.

An Act to amend the Union Assessment Committee Act (1862). [14th July, 1864.]

[The preamble, repealed by the S. L. R. Act, 1893, recited 25 & 26 Vict. c. 103.]

Notice of appeal against poor rate to be given to

[I.] Before any appeal shall be heard by any special or quarter sessions against a poor rate made for any parish contained in any union to which the Union Assessment Committee Act,

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Repealed so far as relates to the metropolis by 32 & 33 Vict. c. 67, s. 77.

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Note.

Appeals to quarter sessions are brought under the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 5, as amended by the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4, and the Poor Rate Act, 1801 (41 Geo. 3, c. 23). Appeals to special sessions are brought under the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), ss. 6, 7.

The form and service of notices are regulated by the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 1, and the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 42.

NOTICE OF OBJECTION.

The grounds on which objections to the valuation list may properly be taken are set out in sect. 18 of 25 & 26 Vict. c. 103. But although the grounds there stated are the only grounds on which the assessment committee have jurisdiction to grant relief to the objector upon the hearing of the objection, a ratepayer who is desirous of appealing against the rate upon some other ground, *e.g.*, that he ought not to be rated at all, must nevertheless go through the formality of giving notice of the objection upon which he desires to rely upon the hearing of the appeal against the rate, notwithstanding the absence of jurisdiction on the part of the assessment committee to grant him relief thereon (*Reg.* v. *Lancaster JJ.*, 43 L. J. M. C. 116; S. C. *Salford Union* v. *Salford JJ.*, 30 L. T. (N. S.) 403; 38 J. P. 361; *Williams* v. *Bedminster Union*, [1874] 30 L. T. (N. S.) 710; 39 J. P. 117). In a later case, however, in which the above cases were not cited, it was held that in an appeal against a rate on the ground of a statutory exemption, it was unnecessary to give notice of objection to the assessment committee, as the committee were not empowered to give relief on that ground (*Walsall* v. *L. & N. W. Ry. Co.*, 46 L. J. M. C. 102).

No objections can be raised against the rate on an appeal against the rate which were not included in the notice of objections served upon the assessment committee (*Williams* v. *Bedminster Union*, [1874] 30 L. T. (N. S.) 710; 39 J. P. 117).

It has been held that notice of objection to the valuation list must be given to the assessment committee before appealing in

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the assessment committee of union.

1862, applies, the appellant shall give twenty-one days' notice in writing previous to the special or quarter sessions to which such appeal is to be made, of the intention to appeal, and the

NOTICE OF OBJECTION—*continued.*

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Note.

respect of every separate rate, although made according to the same valuation list (*Reg.* v. *G. W. Ry. Co.*, [1869] L. R. 4 Q. B. 323; 10 B. & S. 318; 38 L. J. M. C. 89; 20 L. T. (N. S.) 481; 33 J. P. 598); but doubt was cast upon that decision in a subsequent case, where it was held that an objection (upon which the objector failed to obtain relief) made immediately before the making of the rate was sufficient, and that it need not be repeated subsequently to the making of the rate (*Reg.* v. *Wiltshire JJ.*, 4 Q. B. D. 326; 48 L. J. M. C. 142; 40 L. T. (N. S.) 681; 43 J. P. 654); and it was regarded as overruled in *Reg.* v. *Denbighshire JJ.*, 15 Q. B. D. 451; 54 L. J. M. C. 142; 53 L. T. 389; 33 W. R. 784). The point, however, cannot as yet be considered as finally decided.

Where, however, a valuation list is made under a local Act and not under the Union Assessment Committee Act, 1862, an appeal against a poor rate, made by the vestry in pursuance of the local Act upon such list, may be brought to special sessions without giving notice of objection to the assessment committee (*Reg.* v. *Price*, 62 L. J. M. C. 71; 68 L. T. 171; 57 J. P. 294).

It appears that if the objection be on the ground of the undervaluation of third persons notice of such objection is not required by this section to be given to the assessment committee as a condition precedent to appeal (*Reigate Union* v. *S. E. R. Co.*, [1894] 1 Q. B. 411; 63 L. J. M. C. 65; 70 L. T. 353; 42 W. R. 585; 58 J. P. 264); but in a case where a ratepayer objected that he was overrated and three other ratepayers were underrated, and the committee refused to alter his assessment, and then proceeding to the first case of the three other ratepayers made a very small alteration in his assessment, and the objector refused to go on with the other objections against the other two ratepayers, it was held that he was only entitled to be heard on his appeal to quarter sessions as to his own rate and that of the first of the ratepayers, and not as to the others (*Reg.* v. *Kent JJ.*, [1870] L. R. 6 Q. B. 132; 40 L. J. M. C. 76; 19 W. R. 205; 35 J. P. 454).

The words "after notice given" in this section apply solely to the notice to be given by the objecting party to the assessment committee under sect. 18 of 25 & 26 Vict. c. 103; and the words "in the manner prescribed by the said Act with respect to objections" refer to sect. 42 of that Act, having reference to the manner in which the notice is to be served (*Reg.* v. *Langriville*, *Reg.* v. *Copping Syke*, 14 Q. B. D. 83; 54 L. J. Q. B. 124; 52 L. T. 353; 23 W. R. 213; 49 J. P. 54). It is usual, however, and perhaps safer to serve the notice upon the overseers as well as upon the assessment committee.

FAILURE TO OBTAIN RELIEF.

If notice of objection is duly given, and the assessment committee grant some of the relief required, but not all that is asked for, or as much as the objector thinks just, the objector has "failed to obtain relief" within the meaning of this section, and is entitled to appeal (*Reg.* v. *Derbyshire JJ.*, [1871] 25 L. T. (N. S.) 43; 19 W. R.

grounds thereof, to the assessment committee of such union: Provided, that after the first day of August next no person shall be empowered to appeal to any sessions against a poor

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No appeal against rate made in conformity with

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Note.

FAILURE TO OBTAIN RELIEF—*continued.*

934; *Reg.* v. *Denbighshire JJ.*, [1885] 15 Q. B. D., at p. 454). So also, if no relief is granted because the objector refuses to produce evidence in support of his objection (*Reg.* v. *Essex JJ.*, [1882] 46 J. P. 724; although this latter case appears to be in conflict with the earlier case of *Reg.* v. *Kent JJ.*, [1870] L. R. 6 Q. B. 132; 40 L. J. M. C. 76; 19 W. R. 205; 35 J. P. 454).

The objection, however, must be heard and decided upon by the committee before the appeal is brought, for until that is done there is no failure to obtain relief. If the committee delay hearing the objection, the remedy, if any, of the person desirous of appealing is to apply for a *mandamus* to compel them to hear it; and he must not bring his appeal until they have heard it, otherwise the appeal will be dismissed as premature (*Reg.* v. *Bedminster Union*, [1876] 1 Q. B. D. 503; 45 L. J. M. C. 117; 34 L. T. (N. S.) 795; 40 J. P. 743); and however long he has to wait for the decision of the committee, his appeal will be in time if brought to the proper sessions after their decision has been given (*Reg.* v. *Biggleswade*, 21 L. T. (N. S.) 494). The twenty-one days' notice of appeal must, however, be given within a reasonable time after the hearing of the objection and the failure to obtain relief, so that, if practicable, the appeal may be brought to the next sessions (*Liverpool United Gas Co.* v. *Everton*, L. R. 6 C. P. 414; 40 L. J. M. C. 104; S. C. *Reg.* v. *Liverpool, Recorder of*, 23 L. T. (N. S.) 813; 35 J. P. 186); in which case the facts were as follows: An assessment committee refused the appellants relief against a rate on August 3rd; the next sessions of the borough in which the rate was made took place on September 1st; at the following sessions, on October 26th, the appellants applied to enter an appeal against the rate, and the recorder granted the application, on the ground that the sessions of September 1st were not the next practicable sessions; seven days being, in his opinion, insufficient time for the appellants to determine whether or not to give notice of appeal to the assessment committee under 27 & 28 Vict. c. 39, s. 1. Upon a rule for prohibition, it was held that as this was a question of fact upon which the recorder's jurisdiction was based, the court had power to review his decision, and that he was wrong. *Per* Smith, J., "I wish to say that I think a week is long enough in this particular case; but I do not desire to lay it down that in every case no longer time ought to be allowed."

It is probable that if, after a rate has been made, a ratepayer, desirous of appealing against the rate, delays giving notice of objection to the list under this section for such length of time that the notice of appeal cannot, in consequence of such delay, be given so as to be effective for the next sessions after the making of the rate, the appeal would be dismissed on the ground of its not having been brought to the next practicable sessions. (See judgment of Lord Campbell, C.J., in *Reg.* v. *Yorks. W. R. JJ.*, [1858] E. B. & E. 713; 27 L. J. M. C. 269.)

AMENDMENT OF LIST AND RATE.

The "current rate" which, by this section, is to be altered if the list is amended, means the rate which is current at the time that

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valuation list unless objection has been made to list.

Assessment committee to hear such objections.

rate made in conformity with the valuation list approved of by such committee, unless he shall have given to such committee notice of objection against the said list, and shall have failed to obtain such relief in the matter as he deems just; and which objection, after notice given at any time in the manner prescribed by the said Act with respect to objections, the committee shall hear, with full power to call for and amend such list, although the same has been approved of, and no subsequent list has been transmitted to them, and if they amend the same shall give notice of such amendment to the overseers, who shall thereupon alter their then current rate accordingly.

Committee may, with consent of

II. The assessment committee of such union may, with the consent of the guardians of such union, after notice shall have

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AMENDMENT OF LIST AND RATE—*continued.*

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Note.

the notice of objection is served upon the assessment committee (*Reg.* v. *G. W. R. Co.*, 38 J. P. 822); where the notice of objection was served before payment of the rate was enforced, and the objection eventually allowed, but the committee did not give their final decision thereon until after the rate had been paid and the time for which it had been made had expired, and the overseers had gone out of office. It was held that appellant was entitled to be repaid the excess overpaid by him.

When the list has been amended by the committee under this section, it is not necessary to re-deposit the list under sect. 21 of the Union Assessment Act, 1862 (25 & 26 Vict. c. 103) (*Reg.* v. *Edmonds*, L. R. 9 Q. B. 598; 43 L. J. M. C. 156; 31 L. T. (N. S.) 237; 22 W. R. 924; 38 J. P. 727).

Where an amendment in the list has been made under this section, an urban general district rate made in conformity with the original list should be enforced against a ratepayer whose assessment has been reduced only to the amount warranted by the reduced assessment (*Sheffield Waterworks Co.* v. *Sheffield, Mayor, &c., of*, 55 L. J. M. C. 40; 54 L. T. 179; 34 W. R. 153; 50 J. P. 6).

HIGHWAY RATE.

By the Highway Rate Assessment and Expenditure Act, 1882 (45 & 46 Vict. c. 27), s. 4, in every highway rate the hereditaments included therein and assessable to the poor rate are to be rated according to the value thereof appearing in the valuation list; and when any valuation list is amended under this section, the assessment committee must give notice of such amendment to the surveyor of highways or other person authorized to make and levy the highway rate, who shall thereupon amend the current highway rate accordingly.

Sect. 2.

Note.

The remedies and rights of persons other than overseers to whom notice of appeal may be given depend upon the provisions of the Poor Relief Act, 1743 (17 Geo. 2, c. 38); the Poor Rate Act, 1801 (41 Geo. 3, c. 23); the Parochial Assessment Act, 1836 (5 & 6 Will. 4, c. 96), and the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45).

If an assessment committee appear as respondents to an appeal

been sent to every guardian, appear as respondents to such appeal, but in the name of the guardians of such union, in like manner, and with the same incidents, and subject to the same liabilities, and entitled to the same remedies and rights, as in the case of persons other than the overseers to whom notice of appeal may be given.

Sect. 2. guardians, appear as respondents on appeal.

III. The costs which the committee may incur in consequence of becoming respondents to such appeal, or of having received notice thereof, shall, if not recovered from the appellants, as well as any costs the committee may be ordered to pay to the appellants, be paid by the guardians and charged to the common fund of the union, unless the court before whom such appeal is heard shall direct that such costs, or any

Provision as to costs of committee on appeals.

Sect. 2. Note.

without obtaining the consent of the guardians after notice sent to each guardian as prescribed by this section, they will not, if successful on the appeal, be entitled to any costs. And they must obtain the consent of the guardians to appear as respondents in respect of every rate which they desire to defend (*West Ham Union* v. *Essex JJ.*, [1896] A. C. 443; 64 L. J. M. C. 39; 71 L. T. 832; 41 W. R. 183).

If the assessment committee do not appear at the hearing of the appeal the guardians cannot be made liable for costs (*Reg.* v. *Salop JJ., and Wood*, 60 J. P. 552).

The board of guardians are responsible for the costs of the assessment committee who with their consent appear as respondents to an appeal but are unsuccessful; and the individual members of the committee incur no personal liability (*Leicester Waterworks Co.* v. *Nuttall*, 4 Q. B. D. 18; 48 L. J. M. C. 41; 39 L. T. (N. S.) 624; 27 W. R. 364; 43 J. P. 207).

When notice of appeal is served on the overseers and on the assessment committee, an unsuccessful appellant is liable only for one set of costs (*Reg.* v. *Essex JJ.*, [1894] 63 L. J. Q. B. 250; 71 L. T. 296).

When an assessment committee have duly appeared as respondents to an appeal to special sessions, they may appeal to the quarter sessions from the decision of the justices in special sessions, and *semble* they do not need to obtain the consent of the guardians specified in this section before they give notice of appeal (*Reg.* v. *Montgomeryshire JJ.*, 50 L. J. M. C. 51; S. C. *Newton and Llanidloes Union* v. *Pryce-Jones*, 44 L. T. 310; 45 J. P. 407).

Sect. 3. Note.

Costs at quarter sessions may be given under the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4, and the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 5; and at special sessions under the Parochial Assessment Act, 1836 (5 & 6 Will. 4, c. 96), s. 6. Where guardians of several unions agree to unite in defending appeals against a rate in different parishes which involves a common principle, their costs may be apportioned among the various unions under the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 29. The board of guardians, and not the committee, are alone liable to pay the costs of defending appeals (*Leicester Waterworks* v. *Nuttall*, 4 Q. B. D. 18; 48 L. J. M. C. 41; 39 L. T. (N. S.) 624; 27 W. R. 364; 43 J. P. 207).

Sect. 3.

part thereof, shall be charged to the parish, the rate of which is appealed against.

Valuation of valuer to be made in writing, and signed, and to be open to inspection.

IV. Where a valuer is appointed by the assessment committee he shall make his valuation in writing, showing the particulars of the several hereditaments comprised therein, and the amounts at which he has valued the same respectively, and shall sign such valuation, which shall be open to inspection in like manner and with the same incidents with respect to the taking of copies or extracts as the minute books of the committee.

Notice of valuation to be given to companies named as occupiers but not having places of business in the parish.

V. Within fourteen days after the transmission to the assessment committee of any valuation or supplemental valuation list the committee shall give notice to every railway, telegraph, canal, gas, and water company named in such list as the occupier of any property included therein, and not having any office or place of business in the parish to which such list relates, of the sum or sums set down as the rateable value of the property purporting to be occupied by such company or companies, and such notice may be served by being transmitted through the post to the principal office of the company, or one of their principal offices when there shall be more than one.

Justices in certain cases

VI. No justice of the peace shall be disqualified for acting in the determination of any appeal against a poor rate at any

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Sect. 4.

Note.

A valuer may be appointed by the committee under sects. 16, 20, or 24 of the Union Assessment Act, 1862 (25 & 26 Vict. c. 103); and inspection, &c., of the books of the committee is regulated by sect. 11 of that Act. It is not necessary, under this section, that the value of each individual field should be stated separately; it is sufficient to give in a lump sum the value of various parcels which are all in the occupation of one person (*Rawlence* v. *Hursley Union*, 3 Ex. D. 44; 47 L. J. M. C. 31; 37 L. T. (N. S.) 503; 42 J. P. 42).

Sect. 5.

Note.

If the notice prescribed by this section is not given, it is doubtful whether the company would be bound by the valuation list. (See *Reg.* v. *Middlesex JJ.*, L. R. 7 Q. B. 653; 20 W. R. 774; 36 J. P. 727, decided on sect. 9 of Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67).)

Sect. 6.

Note.

By the Justices Jurisdiction Act, 1742 (16 Geo. 2, c. 18), s. 1, any justice or justices of the peace for any county, riding, city, liberty, franchise, borough, or town corporate, may enforce the laws relating to parochial taxes, levies, or rates, notwithstanding such justice or justices is or are rated to or chargeable with the taxes, levies, or rates within any such parish, township, or place; but by a proviso enacted in sect. 3, nothing in the Act is to authorize any justice or justices of the peace for the county or riding at large to act in the determination of an appeal to quarter sessions in respect of any matter relating to any parish, &c., where such justice or

quarter or special sessions by reason of such justice being rated, or being liable to be rated, in some other parish in the union than that for which the rate appealed against is made.

Sect. 6. not disqualified for hearing appeals.

VII. When the overseers of any parish incur any expense in making out any valuation list or supplemental list, or in revising or valuing any of the rateable hereditaments of such parish, under the provisions of the Union Assessment Committee Act, 1862, with the consent of the vestry given by express resolution, after due notice, they may charge such expense, so far as the same may be authorized by the vestry, upon the poor rate; and if no vestry meeting be held, or no decision arrived at on the subject, then to the extent which

Expenses of overseers as to valuation lists, &c. incurred with consent of vestry or allowed by assessment committee may be charged on poor rates.

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justices is or are taxed, &c. This sect. 6 of 27 & 28 Vict. c. 39, leaves the jurisdiction of justices at petty and special sessions as it was under 16 Geo. 2, c. 18, s. 1, and does not take away that jurisdiction either in terms or by any necessary inference. It only removes the disqualification attaching to justices sitting at quarter sessions (*Reg.* v. *Bolingbroke*, [1893] 2 Q. B. 347; 62 L. J. M. C. 180; 69 L. T. 717; 42 W. R. 128; 58 J. P. 118; *Ex parte Workington, Overseers*, [1894] 1 Q. B. 416; 70 L. T. 143; 42 W. R. 177; 58 J. P. 381).

Sect. 6. Note.

Sect. 7. Note.

New or supplemental lists are made under sects. 25 and 26 of the Union Assessment Act, 1862 (25 & 26 Vict. c. 103). The provisions of this section supply the omission in sect. 39 of that Act to provide for the expenses incurred by overseers in making valuation lists. The consent of the vestry need not be obtained before the expenses are incurred (*Reg.* v. *Chorlton-upon-Medlock* [1876] 1 Q. B. D. 62; 45 L. J. M. C. 33; 33 L. T. (N. S.) 526; 40 J. P. 533). And where the vestry of a parish charged in their account a sum of 100*l.* paid to their vestry clerk appointed under the Vestries Act, 1850 (13 & 14 Vict. c. 57), for preparing a valuation list; and the same was disallowed by the auditor on the grounds (1) that preparing the list was among the statutory duties of the vestry clerk (under sect. 7 of the Act), and (2) that the charge was excessive; the court held that the valuation list was not an assessment, and its preparation was not therefore among the statutory duties of the vestry clerk, and that the vestry, having sanctioned the amount, the disallowance by the auditor must be quashed (*Reg.* v. *Cumberlege*, 2 Q. B. D. 366; 46 L. J. M. C. 214; 36 L. T. (N. S.) 700; 41 J. P. 593).

For the transfer of the powers of the vestry for the purposes of this section to the parish council, or to the parish meeting of a rural parish having no parish council, or to the district council or some representative body in an urban district, see Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 6, 19 (4) and 33.

For the requisites of a notice convening a vestry meeting, see the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 1, amended by the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 2. For the requisites of a notice convening a meeting of the parish council, see Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 51, and schedule I., part 2, r. 5; and of a parish meeting, *Ib.*, s. 51, and schedule I., part 1, r. 2.

Sect. 7.

the assessment committee shall allow: Provided that, as regards the valuation of the property, no expense shall be so charged upon the poor rate unless the consent of such committee to the procuring of such valuation by the overseers shall have been given previously to the same being made.

Power to guardians, with the order of the Poor Law Board, to borrow money for valuation expenses by charge on poor rates of union or parish.

VIII. If the assessment committee order a valuation, with the consent of the board of guardians, to be made of all the rateable hereditaments of any parish, the guardians of the union may, if they think fit, apply to the Poor Law Board for an order to enable them to borrow the requisite amount to pay the cost of such valuation; and if the said board shall issue their order, the said guardians may borrow the same, and charge the poor rates of the several parishes in the union with the repayment of the same by not more than five equal annual instalments; and where the parish for which the valuation is made shall, by reason of any provision in the said Union Assessment Committee Act or this Act, be liable to pay the cost of such valuation, the said guardians shall charge the annual instalments, and the interest payable therewith, to such parish, and may recover the same as and with the usual contributions.

Totals of rental and rateable value of property included in lists to be sent to clerks of the peace.

IX. The clerk of every assessment committee shall send annually in the month of December copies of the totals of the gross estimated rental and rateable value of the property included in the valuation lists of the several parishes within

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Sect. 8.

Note.

The Assessment Committee are empowered to order a valuation under sects. 16, 20, and 26 of the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103).

The powers of the Poor Law Board are now vested in the Local Government Board (34 & 35 Vict. c. 70).

It is doubtful whether this section is repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2 (6), by which it is provided that "all enactments in the Acts relating to the relief of the poor touching the purposes for which and the amount to which guardians of unions . . . may borrow, shall be repealed." The preamble to this Act (27 & 28 Vict. c. 39), mentions matters which relate to the relief of the poor; but on the other hand the Poor Law Act, 1897 (60 & 61 Vict. c. 29), which expressly repeals many enactments which were repealed by the general clause in sect. 2 (6) of the Poor Law Act, 1889, does not repeal this section, from which it may be inferred that it was not intended to be repealed by the Poor Law Act, 1889.

For cases where the poor rates of a parish may be charged with the cost of a valuation, see sect. 39 of the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103).

Sect. 9.

Note.

Repealed as regards the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

the union, and where such totals have been altered by any supplemental valuation list or lists then of such totals as altered, to the clerk or respective clerks of the peace of the county or counties within which such parishes respectively may be situate. Sect. 9.

X. If there be no map or plan of any parish available for the use, or sufficient for the purposes of the assessment committee, the committee may, with the consent of the guardians, after notice as aforesaid, and under the authority of an order of the Poor Law Board, appoint a competent person to make a map or plan of such parish, and the cost thereof shall be charged either to the common fund, or to the parish, as may be directed by the Poor Law Board. Power of assessment committee under order of Poor Law Board to order map or plan to be made.

XI. Any overseer who wilfully omits to make the declaration required to be made by the Union Assessment Committee Act, 1862, or makes the same falsely, knowing the same to be untrue, shall be liable for every such offence to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace. Penalty on overseers omitting to make declaration required by 25 & 26 Vict. c. 103, or making false declaration.

XII. The provisions of the Union Assessment Committee Act, 1862, shall, so far as the same are not contrary hereto, be incorporated herewith, and the terms used herein shall be construed in like manner as in that Act. 25 & 26 Vict. c. 103, incorporated herewith.

XIII. This Act may be cited as "The Union Assessment Committee Amendment Act, 1864." Short title.

Notice must be sent to every guardian. (See sect. 2, *ante*.) Sect. 10.

The powers of the Poor Law Board are now vested in the Local Government Board (34 & 35 Vict. c. 70). Note.

Repealed as regards the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77. Sect. 11.

The declaration referred to is prescribed by sect. 28 of the Act of 1862. Note.

POOR REMOVAL ACT, 1864.

27 & 28 VICT. CHAP. 105.

An Act to explain the Statutes of Her present Majesty for amending the Laws relating to the Removal of the Poor.
[29th July, 1864.]

[*Preamble recited* 24 & 25 *Vict. c.* 55, *s.* 1, *amending* 9 & 10 *Vict. c.* 66.]

Computation of period of residence required to render pauper exempt from removal.

24 & 25 Vict. c. 55, &c.

[I.] In the case of any poor person heretofore chargeable or hereafter becoming chargeable in any parish comprised in a union, not being the parish of his settlement, the period of time during which he shall have resided in the parish of the settlement, if in the same union, shall not be excluded in the computation of the time of residence required to render him exempt from removal under the statutes above referred to.

[Sect. 2. *Not to apply to orders executed:* Repealed by the S. L. R. Act, 1875.]

Construction.

III. The words of this Act shall be construed in the same manner as the said first-mentioned Act.

Sect. 1. Note.

The object of this Act was to overrule the decision of the court in *Reg.* v. *Great Salkeld*, 33 L. J. M. C. 185, where a pauper having resided more than three years in the parish of his settlement went to reside in another parish in the same union, and on his becoming chargeable after a residence there of a few months, an order was made to remove him to his parish of settlement, and it was held that the order was rightly made as the pauper had not become irremovable under 24 & 25 Vict. c. 55, s. 1, and 9 & 10 Vict. c. 66, s. 1, by reason of his residence in his parish of settlement, though in the same union as the other parish.

The effect of this Act, therefore, is that a pauper who has resided a sufficient time in a union becomes irremovable, not only from that union to another union, but also from one parish to another parish within the same union, although his term of residence is made up of periods during which he has resided in two or more parishes of the union, none of which are his settlement parish. Where three parishes were in the same union, and a pauper was settled in one of them (A.), and resided for three years in another (B.), and for two years in the third (C.), and was, after the passing of this Act, removed from C. to A., it was held that he was wrongly so removed (*Reg.* v. *Bolton-le-Sands*, 35 L. J. M. C. 54; 13 L. T. (N. S.) 523; 12 Jur. (N. S.) 371; 13 W. R. 177).

It may be observed that since the passing of the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), no advantage would be gained by removing a pauper from one parish to another within the same union.

METROPOLITAN HOUSELESS POOR ACT, 1864.

27 & 28 VICT. CHAP. 116.

An Act to make Provision for distributing the Charge of Relief of certain Classes of poor Persons over the whole of the Metropolis.* [29th July, 1864.]

[Preamble recited that provision for the relief of poor persons in the metropolis during the ensuing winter was expedient.]

[Sects. 1, 2. *Authorizing reimbursement to the guardians of every union or parish situated wholly or partly within the metropolis of monies expended by them in the relief of destitute wayfarers, wanderers, or foundlings during the hours from eight o'clock at night until eight o'clock in the morning:* Repealed by 30 & 31 Vict. c. 6, s. 60; see sect. 69 of that Act.]

What relief to be reimbursed.

III. The relief to which this Act shall apply shall include food and articles of necessity supplied by the said guardians, or by their relieving or other officer, or by any metropolitan police constable authorized by them in such behalf, and also the cost of lodging or shelter hired or temporarily provided for any such poor person, but not money given to him.

Provision for cost of providing and maintaining wards.

IV. Where the guardians shall have provided proper wards or other places of reception for this class of poor, and the same shall have been approved of by the Poor Law Board, they may include as part of the expense incurred by them in the relief of these poor persons such sum in respect of each pauper as the Poor Law Board shall from time to time allow for the cost and expense of temporarily providing and maintaining such wards or other places.

Guardians to provide proper casual wards as a condition

V. Where no adequate accommodation exists, the guardians shall provide within their respective unions or parishes such

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 3. Note.

This Act was originally a temporary Act passed in order to meet exceptional distress after the American Civil War, and was to expire at Lady Day, 1865. It was made permanent by the Metropolitan Houseless Poor Act, 1865 (28 & 29 Vict. c. 34).

Sect. 4. Note.

By sect. 3 of 28 & 29 Vict. c. 34, a gross sum may be allowed for the expenses incurred under this section instead of a sum in respect of each pauper. The expenses are by the Metropolitan Poor Act, 1867 (30 Vict. c. 6), s. 69, payable out of the metropolitan common fund.

Sect. 5. of obtaining the benefit of the Act.

wards or other places of reception for destitute wayfarers and foundlings as the Poor Law Board, having regard to the number of persons likely to require relief therein respectively, shall direct. In default of making such provision, and until the same has been made, the guardians of the union or parish so making default shall not be entitled to the benefit of this Act.

[Sect. 6. *Limiting Act to Lady Day*, 1865: Repealed by 28 & 29 Vict. c. 34, s. 1.]

Interpretation. 4 & 5 Will. 4, c. 76.

VII. The several words used in this Act shall be construed as in the Poor Law Amendment Act, 1834, and the subsequent Acts explaining and extending the same, and the provisions thereof not inconsistent with anything herein contained shall be incorporated herewith.

Short title.

VIII. This Act may be cited for all purposes as "The Metropolitan Houseless Poor Act, 1864."

METROPOLITAN HOUSELESS POOR ACT, 1865.

28 & 29 VICT. CHAP. 34.

An Act to make the Metropolitan Houseless Poor Act perpetual.* [2nd June, 1865.]

[Preamble recited 27 & 28 Vict. c. 116.]

Extent of recited Act.

[I.] The provisions of the said Act shall be extended to the expenditure for relief of destitute wayfarers, wanderers, and foundlings, or other destitute persons, in the several unions and parishes referred to in the said Act, . . .

Inspection of wards.

II. The Poor Law Board shall from time to time cause the wards and other places of reception provided according to the

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1. Note.

The "said Act" is the Metropolitan Houseless Poor Act, 1864 (27 & 28 Vict. c. 116).

The latter part of this section repealing sect. 6 of 27 & 28 Vict. c. 116, is repealed by the S. L. R. Act, 1893.

Sect. 2. Note.

Sect. 1 of the Act of 1864, as to granting certificates, is repealed by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 60, which is also repealed by the S. L. R. Act, 1875.

said Act to be inspected not less than once in every four months, between the hours of six o'clock in the evening and eight in the morning in the months between October and March inclusive, and between the hours of eight o'clock in the evening and eight in the morning in the months between April and September inclusive; and the results of such inspections shall be reported to the Poor Law Board, who may at any time revoke and renew the certificates granted or to be granted under the first section of that Act.

Sums in gross may be allowed for providing wards.

III. The said Board may allow for the costs and expenses referred to in the fourth section of that Act, when they shall see fit to do so, a sum or several sums in gross instead of a sum in respect of each pauper as therein provided.

Power to police to conduct destitute wayfarers to wards for temporary relief.

IV. Any constable of the metropolitan police or of the police of the city of London may personally conduct any destitute wayfarer, wanderer, or foundling, or other destitute person, not having committed or being charged with any offence punishable by law, within the knowledge of such constable, to any wards or other places of reception approved of by the Poor Law Board under the said Act or this Act; and every such wayfarer, wanderer, or foundling shall, if there be room in such wards or other places of reception, be temporarily relieved therein.

Hours during which wards shall be open for admission.

V. The wards or places of reception provided under the said Act shall be open for the admission of destitute wayfarers, wanderers, and foundlings, or other destitute persons, who shall apply to be admitted during the hours between six o'clock in the evening and eight in the morning in the months between October and March inclusive, and during the hours between eight o'clock in the evening and eight o'clock in the morning in the months between April and September inclusive; and the guardians shall be entitled to be reimbursed for all relief administered in conformity with the provisions of that Act during those hours respectively.

Short title.

VI. This Act may be cited for all purposes as "The Metropolitan Houseless Poor Act, 1865."

COUNTY VOTERS REGISTRATION ACT, 1865.

28 & 29 VICT. CHAP. 36.

An Act to amend the Law relating to the Registration of County Voters, and to the Powers and Duties of Revising Barristers in certain Cases. [2nd June, 1865.]

[Preamble recited 6 & 7 Vict. c. 18.]

Short title.

[I.] This Act may be cited as "The County Voters Registration Act, 1865," and shall be construed with and as part of the said recited Act, herein-after termed "the principal Act."

Clerk of peace to deliver precept to overseers of poor.

II. The clerk of the peace shall . . . make and cause to be delivered to the overseers of the poor of every parish and township within his county his precept . . . together with the forms of notices, lists, and copies of register in the principal Act mentioned.

Clerk to send copies of register to overseers.

Publication of register.

III. The clerk of the peace of every county shall, together with the precept, transmit to the overseers of every parish or township within such county a sufficient number of copies of the part or parts of the register relating to such parish or township; and the overseers of the poor of every parish and township shall, on or before the twentieth day of June in every year, and at the same time with the publication of the notice mentioned in the fourth section of the principal Act, publish a copy of the register then in force relating to their parish or township, and shall remove the same after a period including two Sundays at least, and not later than the twentieth day of July.

[Sects. 4, 5. Repealed by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 17.]

Notice of objection to persons on list of claimants may be given as provided by 6 & 7 Vict. c. 18, s. 7, but other notices of objection other than notices to

VI. Any notice of objection to any person on the list of claimants for any parish or township may be given according to the provisions of the seventh section of the principal Act; but with that exception no notice of objection given under the provisions of the said seventh section, other than a notice to the overseers, shall be valid, unless the ground or grounds of objection be specifically stated therein; and this provision shall be deemed to be sufficiently satisfied by naming the column or columns of the list on which the objector grounds his objection:

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Note.

The precepts must be sent to the overseers on or within seven days before April 15th (Registration Act, 1885 (48 & 49 Vict. c. 15), s. 7).

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overseers, shall specify grounds of objection.

Provided always, that if the objection be grounded on the third column, then it shall be necessary to state in the notice whether the objection relates to the nature of the voter's interest in the qualifying property, or to the value of the qualifying property, or to both; and each of such last-mentioned grounds of objection shall be deemed a separate ground of objection, as well as any objection grounded on any one of the other columns; . . .

Person objected to only required to give evidence in support of his right so far as called in question.

VII. No person objected to under the provisions of this Act shall be required to give evidence before the revising barrister in support of his right to be registered, otherwise than as such right shall be called in question in such ground or grounds of objection.

Each ground of objection to be treated as a separate objection.

Costs of frivolous grounds of objection.

VIII. Every separate ground of objection shall be treated by the revising barrister as a separate objection; and for every ground of objection which, in the opinion of the revising barrister, shall have been groundlessly or frivolously and vexatiously stated in a notice of objection, he shall, on the application of the person objected to, or any one on his behalf, and upon production of the notice of objection, award costs against the objector to the amount at least of two shillings and sixpence, and this though the name of the person objected to be expunged upon some other ground of objection stated in the same notice of objection.

Notices of objections.

IX. The provisions of the hundredth section of the principal Act shall apply to notices of objection given under the provisions of this Act.

Declaration by persons whose places of abode are not correctly described or who receive

X. Any person whose name appears on the list of voters then in force, and whose then place of abode is not correctly stated in the said list, or who shall have received a notice of objection grounded on the second column of the list, and who shall have possessed on the [fifteenth] day of July the same qualification in respect of which his name has been inserted on

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Note.

The provisions of this section are extended to objections in boroughs by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 26.

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Note.

Extended to objections in boroughs in the same way as sect. 7, *supra*.

Sect. 10.

Note.

"Fifteenth July" is substituted for "last day of July" by 48 & 49 Vict. c. 15, s. 15, and "fifth September" for "fourteenth September" by 51 & 52 Vict. c. 10, s. 6. For the "twentieth September" 48 & 49 Vict. c. 15, s. 4 (2), substitutes "the first day on which a court for the revision of the lists of voters in a parliamentary county can be held," *i.e.*, September 8th (see 51 & 52 Vict. c. 10, s. 6).

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notice of objection grounded on second column of list.

the list, may, if he think fit, make and subscribe a declaration before any justice of the peace, or any commissioner or other person authorized to administer oaths in any of Her Majesty's Superior Courts at Westminster; and all such declarations shall be duly dated, and shall, on or before the [fifth] day of September, be transmitted to the clerk of the peace; and it shall be the duty of the clerk of the peace to indorse on every such declaration the name of the polling district, and of the parish or township in which the qualification to which the declaration relates is situate, and the name of the person making the declaration, and also the date on which he has received the same, and to affix his initials to such last-mentioned indorsement, and to deliver all such declarations to the revising barrister at his first court, arranged under the heads of the several polling districts according to the alphabetical order of the parishes and townships; and every revising barrister shall for the purpose of correcting the statement in the list of the place of abode of such person receive any such declaration as evidence, to be used in court at the proper time, if transmitted to the clerk of the peace on or before such last-mentioned day, of which the indorsement in that behalf by the clerk of the peace shall be *primâ facie* proof, and if purporting to be subscribed before a justice of the peace, or commissioner or other person authorized as aforesaid, without proof of the signature of the person subscribing the same, or of the justice, commissioner, or person before whom the same purports to have been subscribed, unless he shall have good reason to doubt the genuineness of any signature thereto; and all such declarations may be perused by any person at the office of the clerk of the peace, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day, except Sunday, before the *twentieth day of September;* and the clerk of the peace shall deliver copies of any such declaration to all persons applying for the same, on payment of the price of fourpence per folio of seventy-two words.

Barristers shall use such declarations as evidence for correction of lists as to places of abode.

Declarations to be open to perusal.

Copies to be sold on application.

Penalty for falsely signing declaration, &c.

XI. Any person falsely or fraudulently signing any such declaration in the name of any other person, whether such person shall be living or dead, and every person transmitting as genuine any false or falsified declaration, knowing the same to be false or falsified, and any person knowingly and wilfully making any false statement of fact in such declaration, shall be guilty of a misdemeanour, and punishable by fine or imprisonment for a term not exceeding one year; and the revising barrister shall have power to impound any such declaration.

[Sect. 12. Repealed by 48 & 49 Vict. c. 15, s. 17.]

Orders for costs in cases of objections.

XIII. Every order for costs by a revising barrister, whether revising the lists of a county, city, or borough, in the case of

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any objection, shall be made before his proceeding to hear an objection stated in any other notice of objection; and such order may be delivered either to the person to whom the costs shall therein be ordered to be paid, or to some other person on his behalf: Provided always, that this section shall not be taken to repeal the last proviso contained in the forty-sixth section of the principal Act.

Costs upon any one vote not to exceed 5*l*.

6 & 7 Vict. c. 18, s. 46.

XIV. The sum ordered to be paid by way of costs shall not upon any one vote exceed the sum of five pounds, and the forty-sixth section of the principal Act shall be read as if the words "five pounds" had been substituted therein for the words "twenty shillings."

Revising barrister to read out names expunged and inserted, and corrections.

XV. It shall be the duty of every revising barrister, whether revising the lists of a county, city, or borough, before signing any page of any list, as required by the forty-first section of the principal Act, to read out audibly in open court the names expunged and inserted by him therein, and all corrections and insertions made by him.

Power to remove from court persons who interrupt proceedings.

Attendance of police to keep order, &c.

XVI. It shall be lawful for any revising barrister, whether revising the lists of a county, city, or borough, to order any person to be removed from his court who shall interrupt the business of the court, or refuse to obey his lawful orders in respect of the same; and it shall be the duty of the chief constable, commissioner, or chief officer of police of the county, city, borough, or place in which the court is held to take care that an officer of police do attend that court during its sitting, for the purpose of keeping order therein, and to carry into effect any order of the revising barrister as aforesaid.

Meaning of "value" in case of objection to claim of occupying tenant.

XVII. For the purposes of this Act the word "value" shall, in the case of an objection to any person claiming to be retained or inserted in the list as an occupying tenant, mean "amount of rental."

[Schedule (A.). Repealed by 48 & 49 Vict. c. 15, s. 17. Schedule (B.). Repealed by the S. L. R. Act, 1893. The forms now in force are contained in the Registration Order, 1895.]

UNION CHARGEABILITY ACT, 1865.

28 & 29 VICT. CHAP. 79.

An Act to provide for the better Distribution of the Charge for the Relief of the Poor in Unions.* [29th June, 1865.]

[Preamble recited that it was expedient to make better distribution of the charge for the relief of the poor in unions.]

[I.] [*Repeal of so much of sect.* 26 *of* 4 *&* 5 *Will.* 4, *c.* 76, *as requires that each of the parishes in a union formed under that Act shall be separately chargeable with the expense of its own poor.*] All the cost of the relief to the poor, and the expenses of the burial of the dead body of any poor person under the direction of the guardians or any of their officers duly authorized, in such union thenceforth incurred and all charges thenceforth incurred by the guardians of such union in respect of vaccination and registration fees and expenses, shall be charged upon the common fund thereof.

Expenses of relief and burial of paupers, and in respect of vaccination and registration.

II. When any pauper relieved in any such union shall be settled in any parish situated in another union or subject to a board of guardians, and shall not be exempt from removal by

Guardians in unions may obtain orders

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Note.

The repealing part of this section is repealed by the S. L. R. Act, 1893.

The burial of paupers by direction of the guardians is regulated by the following statutes: Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 31, 56; Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), ss. 16, 17; Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 2; Poor (Burials) Act, 1855 (18 & 19 Vict. c. 79); and Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 13.

For vaccination expenses, see Vaccination Act, 1867 (30 & 31 Vict. c. 84), ss. 9, 28; Vaccination Act, 1871 (34 & 35 Vict. c. 98), ss. 5, 9; Vaccination Act, 1874 (37 & 38 Vict. c. 75), s. 1; and Vaccination Act, 1898 (61 & 62 Vict. c. 49).

For registration expenses payable by guardians, see Births and Deaths Registration Act, 1836 (6 & 7 Will. 4, c. 86), s. 29; Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 56; Births and Deaths Registration Act, 1874 (37 & 38 Vict. c. 88), s. 31; Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 21; Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 24 (2) (*d*).

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Note.

Exemption from removal from any parish was obtained by residence in that parish for a period of *five* years under the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 1; this period was reduced to *three* years by the Poor Removal Act, 1861 (24 & 25 Vict. c. 55),

reason of any provision of the law, the guardians of the union to which such pauper shall be chargeable may obtain an order of removal addressed to the guardians of the union or parish, or the overseers of the parish, as the case may require, in which such pauper shall be settled, and the guardians of such last-mentioned union or parish shall receive such pauper, in like manner and subject to the like incidents and consequences as in the case of orders of removals heretofore obtained by overseers, with such modifications as may be necessary to meet the circumstances of the chargeability to the union instead of the parish.

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of removal in respect of paupers settled elsewhere.

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Note.

s. 4, and finally to *one* year by sect. 8 of this Act. By the Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 1, residence of a person in any part of a union has the same effect in reference to exemption from removal under 9 & 10 Vict. c. 66, as residence in any parish. By the Poor Removal Act, 1864 (27 & 28 Vict. c. 105), s. 1, in the case of any person becoming chargeable in any parish in a union not being the parish of settlement, the period during which he has resided in the parish of settlement, if in the same union, is not to be excluded in the computation of the time of residence required to render him exempt from removal. And by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 34, exemption from removal gained in any parish or union is not to be affected by the addition or separation of such parish or union to or from another union.

By the Poor Removal Act, 1848 (11 & 12 Vict. c. 111), wives and children having no other settlement than that of the husband or parent are not removable unless the husband or parent would be removable. A widow is irremovable for a year after the death of her husband by the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 2; and deserted wives have the same exemption as widows by the Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 3, as amended by the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 17.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, guardians of single parishes may, if authorized by the Local Government Board, obtain orders of removal in the same way as guardians of a union. See also the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 24, as to the removal of paupers from unions not formed under the Poor Law Amendment Act, 1834.

This section does not affect the law of settlement which requires a pauper to be settled in some parish existing for the purposes of settlement in the union to which the pauper is removed. (See sect. 13, *infra*.) Thus, where a parish in a union consisting of various townships had maintained its own poor, and afterwards separate overseers were appointed for each township, the parish was for settlement purposes held to be destroyed and a settlement gained in it by birth in one of the townships before the appointment to be wholly lost, and an order of removal to the union in which the parish was comprised was therefore quashed (*Stourbridge Union* v. *Droitwich Union*, L. R. 6 Q. B. 769; 40 L. J. M. C. 186; 25 L. T. (N. S.) 411; *St. Saviour's Union* v. *Dorking Union*, [1898] 1 Q. B. 594). Mere addition to, or subtraction from, a parish by order of the Local Government Board, does not, however, destroy the parish for the purposes of settlement (*West Ham* v. *London County Council*, [1901] 1 Q. B. 720).

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Guardians may defend and may appeal against orders of removal.

III. The guardians obtaining such order may defend the same, and the guardians upon whom it shall be made may appeal against the same, in like manner and with the like incidents and consequences as in the case of orders obtained or appealed against by overseers. * * *

Signature and service of notices and other documents.

IV. Every notice, statement, demand, or other document required to be given by any such guardians in respect of any order of removal shall be deemed to be sufficiently authenticated if signed by their clerk in their name, and shall be deemed to be duly served upon the guardians to whom it shall be addressed if it be delivered to their clerk personally, or be left at his office, or be sent through the post addressed to him at such office.

Guardians empowered to call for books and papers from overseers, &c.

V. For better enabling the guardians to obtain such orders of removal, or to appeal against the same, they may order the overseers of the poor, or any officer or other person having the custody of any books, papers, documents, or writings of or belonging to any parish in their union, to produce the same, upon reasonable notice, to the board of guardians, or to their clerk or other person appointed by them, and shall allow copies or extracts to be taken therefrom for the use of such guardians, without fee or reward.

Guardians may remove paupers without orders, where guardians of unions of settlement consent to receive them.

VI. Where the guardians of any union or parish shall be satisfied that any pauper is settled within and removable to their union or parish, and shall consent under their common seal to receive such pauper without an order of removal, the guardians seeking to remove such pauper may do so without any such order.

Penalty on pauper returning within twelve months after removal.

VII. Any pauper removed under an order of removal obtained by the guardians of any such union returning to and becoming chargeable to such last-mentioned union again within the period of twelve months from such removal, without the consent of the guardians thereof, shall be deemed to be an idle and disorderly

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Sect. 3. Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, guardians of single parishes may, if authorized by the Local Government Board, defend appeals against orders of removal. A proviso to this section as to pending appeals was repealed by the S. L. R. Act, 1875.

Sect. 4. Note.

For the meaning of "sending, or service by post," see the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 26.

Sect. 7. Note.

For the penalty, see 5 Geo. 4, c. 83, s. 3. If a pauper returns and becomes again chargeable, the *onus* is upon him to show that he had a sufficient excuse for returning, and that he did not return in a state of pauperism (*Mann* v. *Davers*, 3 B. & Ald. 103).

person within the meaning of the Vagrancy Act, 1824, and be liable to be convicted and punished as such. Sect. 7. 5 Geo. 4, c. 83.

VIII. The period of one year shall be substituted for that of three years specified in the first section of the Poor Removal Act, 1861. One year to be substituted for three years in sect. 1 of 24 & 25 Vict. c. 55.

IX. The costs and expenses lawfully incurred in and about the prosecution of any person for which the guardians of the union may be liable, or which they undertake to pay, under the fifty-ninth section of the Poor Law Amendment Act, 1844, shall in all cases be charged to the common fund. Costs of prosecutions to be charged to the common fund. 7 & 8 Vict. c. 101, s. 59.

X. For the purposes of the burial of any poor person dying in the workhouse of any union, such workhouse shall be considered as situated in the parish in the union where such poor person resided last, previously to his removal to the workhouse. Parish of pauper dying in workhouse.

XI. The Poor Law Board shall, as soon as convenient, make all such orders as may be requisite to render the provisions of this Act applicable to the proceedings and accounts of the guardians of unions and of overseers of parishes comprised therein. Poor Law Board to make orders.

XII. The guardians shall distribute the charges upon the common fund during and at the close of every half-year in the Distribution of the charges on the common fund.

See note to sect. 2, *supra*, and note to 24 & 25 Vict. c. 55, s. 1, *ante*. Sect. 8.

Note. Sect. 9.

Various matters in respect of which guardians are authorized to institute prosecutions are enumerated in the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 59. Guardians are also authorized to prosecute masters and mistresses for not providing apprentices or servants with food, &c., whereby life is endangered, by the Offences against the Person Act, 1861 (24 & 25 Vict. c. 100), ss. 26, 73; for offences against children by the Prevention of Cruelty to Children Act, 1894 (57 & 58 Vict. c. 41), s. 21; and the Infant Life Protection Act, 1897 (60 & 61 Vict. c. 57); and for offences against the Vaccination Acts, by the Vaccination Act, 1867 (30 & 31 Vict. c. 84), s. 33. Note.

The provisions of this section supersede the provisions in the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 56, so far as the same relate to the burial of paupers. Sect. 10. Note.

In pursuance of this section, the Amendment of Consolidated Orders (Unions) Order, February 26th, 1866, and the General Order for Accounts (Unions), January 14th, 1867, were issued. Sect. 11. Note.

As to contributions payable by subdivided or added parishes before a valuation list is made for the divided parts or added parishes, see the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 15. Sect. 12. Note.

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proportions according to which the orders for the contribution to the common fund were made upon the several parishes comprised in such unions at the commencement of such half-year, notwithstanding the change which may be made in the valuation list of any parish during such period.

Saving of settlements in other respects.

XIII. Except as herein provided, no alteration shall be made in respect of the settlement of poor persons in parishes.

Unions, &c. under local Acts enabled to avail themselves of this Act.

XIV. If in any union or incorporation for the relief of the poor, where the cost thereof is not borne by a common fund, or where the common fund is not calculated upon an equal basis throughout the union or incorporation, the body having under the constitution of such union or incorporation the management of such relief shall be desirous of adopting the provisions of this Act, such body may, on a resolution to that effect of a majority at two successive meetings, by writing under the hand of the presiding chairman of the second of such meetings apply to the Poor Law Board to be included in this Act; and upon the consent of that board being given under its seal to such application, and subject to such terms and conditions as that board may deem requisite, such union or incorporation shall be so included from such time as the said board shall declare; and such consent so signified shall be evidence that such application was in all respects duly made according to the provisions above mentioned.

Calls for money in advance to be made on the overseers of the several parishes comprised in unions adopting this Act.

Enforcement of calls.

XV. When this Act has been adopted by any such union or incorporation as aforesaid, and such adoption has been legally brought into operation in such union or incorporation, the body having the management of the relief of the poor therein shall from time to time make calls in advance for money for the relief of such poor upon the overseers of the several parishes therein respectively, on the basis of an equal pound rate on the annual value of the property in each parish rateable to the relief of the poor according to the law in force for the time being, and shall have the same powers of enforcing such calls as they now possess under the provisions of such local Act for enforcing calls or rates for the relief of the poor; and such overseers shall have the same powers for making, levying, and enforcing rates to meet and pay such calls as they now possess, either under the provisions of such local Act or the general law relating to the making, levying, and enforcing rates for the relief of the poor.

Application of 4 & 5 Will. 4, c. 76, &c.

XVI. The words herein used shall be interpreted in the manner prescribed by the Poor Law Amendment Act, 1834, and the subsequent Acts amending or explaining the same; and the provisions in such Acts which apply to poor persons rendered chargeable upon the common fund by reason of their

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Note.

See note to sect. 2, *supra*.

having become irremovable through the operation of the statutes in that behalf shall apply to all the poor in the union hereby rendered chargeable upon the common fund. Sect. 16.

XVII. This Act may be cited as "The Union Chargeability Act, 1865." Short title.

SUPERANNUATION (METROPOLIS) ACT, 1866.

29 & 30 VICT. CHAP. 31.

An Act to provide for Superannuation Allowances to Officers of Vestries and other Boards within the Area of the Metropolis Local Management Act. [18th May, 1866.]

[*Preamble.*]

[This Act is extended to include officers and servants engaged in public baths, &c., by the Baths and Washhouses Act, 1878 (41 & 42 Vict. c. 14), s. 12. For superannuation allowances, &c., to officers and servants of guardians, see the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50).]

[I.] The vestry of any parish and district board of any district or any other parochial body within the metropolis, and also the Metropolitan Board of Works, may, at their discretion, grant to any officer in their respective services, including the chairman of the Metropolitan Board of Works, who shall become incapable of discharging the duties of his office with efficiency by reason of permanent infirmity of mind or body, or of old age, upon his resigning or otherwise ceasing to hold his office, an annual allowance, not exceeding in any case two-thirds of his then salary, regard being had to the scale of allowances herein-after Superannuation allowances to officers of metropolitan board, district boards, and vestries.

Sect. 1. Note.

Officers of the Metropolitan Board of Works became officers of the London County Council under the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 118 (13). Officers of vestries and district boards became officers of metropolitan boroughs under the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 30.

A metropolitan vestry appointed a committee to consider an application from a rate collector for a superannuation allowance. The committee reported that no pension should be granted on the ground that the collector had received a high salary for many years, and had been allowed to perform the office by deputy for several years. The vestry adopted the conclusions of the report and refused the application. More than a year previously sixty out of one hundred and eight members of the vestry had been elected on a programme including the total abolition of pensions to salaried officers. *Held*, on a rule for a *mandamus*, that there was not sufficient evidence that the vestry had not lawfully exercised their discretion (*Reg.* v. *Bromley St. Leonard*, 60 J. P. 725).

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contained, and shall charge such allowance to the fund or funds to which such salary would have been charged if he had continued in his office: Provided always, that nothing in this Act contained shall affect the powers contained in the two hundred and thirteenth section of the Metropolis Management Act, 1855.

18 & 19 Vict. c. 120, s. 213.

Allowances not to be assignable.

II. This allowance shall be payable to or in trust for such officer only, and shall not be assignable for nor chargeable with his debts or other liabilities without the consent in writing of the vestry, district board, Metropolitan Board of Works, or other parochial body.

Officer under sixty not entitled to allowance on ground of old age.

III. No officer shall be entitled to such allowance on the ground of old age who shall not have completed the full age of sixty years.

Scale of allowances.

IV. Subject to the provisions herein contained, the allowance to be granted to persons who shall have served in an established capacity as officers as aforesaid, whether their remuneration be computed by weekly wages, poundage or percentage on collection of rates, or annual salary, shall be as follows; (that is to say,)

To any person who shall have served ten years and upwards, and under eleven years, an annual allowance of ten-sixtieths of the salary and emoluments of his office;

And in like manner an addition of one-sixtieth in respect of each additional year of such service until the completion of a period of service of forty years, when the annual allowance of forty-sixtieths may be granted; and no addition shall be made in respect of any service beyond forty years; but in computing the time of an officer's service any period during which such officer shall have been in the service of a vestry, board of trustees, or other parochial board of the same parish superseded by the Metropolis Management Act, 1855, or of any parish comprised in the district board granting such allowance, shall be included.

Computation of period of service.

18 & 19 Vict. c. 120.

Power, in computing the allowance of certain officers, to add a certain number of years to their years of actual service.

V. When for the due and efficient discharge of the duties of any office professional or other peculiar qualifications not ordinarily to be acquired in the vestry or board's service are required, and any person having such qualifications shall have been or may be appointed thereto beyond the age of thirty years, any vestry or board may, by order, direct that when any person now holding or who may hereafter be appointed to such office shall retire from their service a number of years, not exceeding ten, to be specified in the said order, shall in computing the amount of superannuation allowance which may be granted to him under this Act be added to the number of years during which he may have actually served.

Power to grant gratuities to

VI. Any vestry or board or other parochial body may grant to any person who is compelled to quit their service by reason

of severe bodily injury occasioned, without his own default, in the discharge of his public duty, or from infirmity of mind or body, before the completion of the period which would entitle him to a superannuation allowance, a gratuity not exceeding three months' pay for every two years of service.

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officers compelled to retire before becoming entitled to superannuation allowance.

VII. No grant shall be made without one month's previous notice, to be specially given in writing to every member of the vestry or district board, of the proposal to make such grant, and the time when it shall be brought forward.

Notice to be given of proposal to make grant.

VIII. In the construction of this Act the term "metropolis" shall have the same interpretation as in the Metropolis Management Act, 1855, and Metropolis Management Amendment Act, 1862; the words "other parochial body" shall mean all trustees, overseers, and others who make the several rates for the purposes of the vestry or the district board of any district.

Interpretation.

18 & 19 Vict. c. 120.

25 & 26 Vict. c. 102.

COUNTY RATE ACT, 1866.

29 & 30 VICT. CHAP. 78.

An Act for removing Doubts respecting the assessment of County Rates. [6th August, 1866.]

[Preamble recited 15 & 16 Vict. c. 81; 25 & 26 Vict. c. 103.]

[I.] Nothing contained in the Union Assessment Committee Act, 1862, shall apply to any assessment which has been or shall be made by any committee appointed by the justices under the County Rates Act, 1852; and any committee which has been or shall be appointed under the last-mentioned Act may prepare a basis for county rates, and do all other things authorized to be done by them under the said Act, in the same manner in all respects as if the Union Assessment Committee Act had not passed.

25 & 26 Vict. c. 103, not to apply to assessments made under 15 & 16 Vict. c. 81.

II. Whereas by the twenty-sixth section of the County Rates Act, 1852, printed lists of the parishes and places assessed to the county rate, and the amount of the rateable value upon

15 & 16 Vict. c. 81, s. 26.

Repealed so far as it relates to the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

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Note.

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (1), the powers and duties of making, assessing and levying of county rates, and the preparation and revision of the basis or standard for the county rate, are transferred from the committee appointed by the justices under the County Rates Act, 1852, to the county council.

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which such parishes and places have been assessed, are required to be sent to the persons therein mentioned upon every occasion when a county rate is made: And whereas it is expedient to amend the said section: Be it enacted, that the said printed lists shall, unless the justices otherwise direct, be sent only on the occasion when a new basis or standard for a county rate or an alteration in the existing basis or standard has been allowed and confirmed.

Printed lists.

Short title.

III. This Act may be cited for all purposes as "The County Rate Act, 1866."

POOR LAW AMENDMENT ACT, 1866.

29 & 30 VICT. CHAP. 113.

An Act to amend the Act providing Superannuation Allowances to Officers of Unions and Parishes, and to make other Amendments in the Laws relating to the Relief of the Poor.* [10th August, 1866.]

[*Preamble.*]

Superintendent registrars and registrars of births and deaths deemed officers under 27 & 28 Vict. c. 42.

[I.] *The superintendent registrar and the registrar of births and deaths appointed in any union or parish shall be deemed an officer within the operation of the Poor Law Officers Superannuation Act*, 1864; *and in computing the salary of any officer under that or the present statute the amount of the emoluments of his office on the average of the three years concluded at the last preceding quarter may be taken into the calculation by the guardians, managers, or overseers.*

Provision for relieving officers who have also been registrars.

II. *Where any relieving officer of any union or parish shall have also held the office of registrar of births and deaths in the same union or parish, he shall not be disqualified from receiving a superannuation allowance in respect of such office of relieving officer by reason of his having simultaneously held the office of registrar, and by reason of his having resigned his office of relieving officer subsequent to the passing of the last-mentioned Act.*

Managers of district schools empowered to grant superannuation allowances.

III. *The board of management of any district school may exercise the same power in respect of any officer of such school in their service as the guardians of any union can do under such last-mentioned statute, with like consent as therein provided, and shall charge any allowance to be made by them to the fund chargeable with the payment of the salaries of their officers.*

* Throughout this Act for "Poor Law Commissioners" and "Poor Law Board" now read "Local Government Board" (34 & 35 Vict. c. 70).

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Note.

These sections are repealed by the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50), s. 20, with a saving of rights acquired before that Act. The Poor Law Officers Superannuation Act, 1864, is also repealed and replaced by that Act.

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Evidence of decision of Poor Law Board giving or withholding their consent, in matters where an order under seal is not required.

IV. In any case where the Poor Law Commissioners or the Poor Law Board shall have given or refused, or shall hereafter give or refuse, their consent, sanction, or approval in any matter where their order under seal shall not have been or shall not be expressly required, the production of any written document signed or purporting to be signed by a secretary or assistant secretary of the said commissioners or the said board shall be *primâ facie* evidence of the decision of the said commissioners or the said board upon such matter as aforesaid.

[Sect. 5. *Remission of surcharges, &c., need not be by order under seal; repeal of* 11 & 12 *Vict. c.* 91, *s.* 4: Repealed by the S. L. R. Act, 1893.]

Effect of an extraordinary audit.

VI. When the Poor Law Board shall require an auditor to hold an extraordinary audit of the accounts of any guardians or overseers, or of any officer, whether still continuing or upon his resignation or removal from office, such audit shall be deemed to be an audit within the meaning of the several Acts relating to the audit of the accounts of the poor rate, and may be held after three days' notice thereof given in the usual manner.

Auditor empowered to inspect books at any time.

VII. The auditor who shall be authorized to audit the accounts of any guardians, overseers, or officers may at any time, when authorized or required by the Poor Law Board so to do, inspect the accounts and books of account of any guardians, overseer, or any officer liable to account to him; and any such guardian, overseer, or officer who shall thereupon refuse to allow him to inspect the same, or shall obstruct him in such inspection, or shall conceal any such account or book for the purpose of preventing such inspection, shall forfeit a sum not exceeding five pounds, to be recovered as a penalty under the Poor Law Amendment Act, 1834, and to be applied to the use of the parish or union for which such guardian, overseer, or officer respectively shall act.

4 & 5 Will. 4, c. 76.

Limit of sums to be raised for improvements of workhouse.

VIII. [*Repeal of proviso to* 4 *&* 5 *Will.* 4, *c.* 76, *s.* 25, *and substitution of the following provision:*] The principal sum to be

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As to the provisions for holding audits of poor law accounts, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32—36, and the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91). The manner of giving notice of the audit is prescribed by sect. 7 of the latter Act.

Note.

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For recovery of penalties, see 4 & 5 Will. 4, c. 76, s. 99.

Note.

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So much of this section as limits the amount to be borrowed is apparently repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2 (6).

Note.

An order of the Poor Law Board for the enlargement, &c., of a

Sect. 8.

raised for the purposes specified in such section shall not exceed one-tenth of the average annual amount of the rates raised for the relief of the poor in any such parish or union to which such section applies for the three years ending at the Easter next preceding the raising of such money; and when the board of guardians of any union or parish shall deem it expedient to make any enlargement, alteration, or improvement of their workhouse, or the premises, drainage, or other appurtenances belonging thereto, at a cost not exceeding five hundred pounds, and the Poor Law Board shall give their consent thereto, they shall not require any order of that board to enable them to execute the same.

Application of money raised for emigration, but not applied.

IX. Where any sum of money has been lawfully raised or borrowed for the purpose of the emigration of poor persons, and the same shall not have been wholly expended for such purpose, the Poor Law Board may, upon application from the overseers of the parish for whose use the sum was raised or borrowed by their order under seal, direct the unexpended amount of such sum, where it has not been raised by borrowing, to be applied in aid of the current rate, and where it has been borrowed, to be applied in reduction of the balance of the loan, or in aid of the current rate, as the case may require.

The same person not to be overseer and assistant overseer.

X. No person shall be qualified to be appointed to be an overseer of the poor in any parish who at the time of the proposed appointment shall be an assistant overseer of any parish; and no person being an overseer of any parish shall be qualified to be appointed an assistant overseer.

One overseer only may be appointed

XI. If it shall appear to the justices who are required to appoint overseers that two overseers cannot be conveniently

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Sect. 8. Note.

workhouse was required by 4 & 5 Will. 4, c. 76, s. 25: and the provisions of that section as amended by this section are extended by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 8, to the providing of proper drainage, sewers, ventilation, fixtures, furniture, surgical and medical appliances, and other conveniences at any workhouse.

Sect. 9. Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 62, 63, owners and ratepayers in any parish were empowered to raise money on security of the rates for emigration purposes. And by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 29, the administration of the money so raised was given to the guardians.

Sect. 10. Note.

Previous to this enactment the two offices were not deemed incompatible, and the acceptance of the office of overseer by an assistant overseer did not vacate the latter office (*Worth* v. *Newton*, 10 Exch. 247; 23 L. J. Ex. 338; 24 L. T. 157).

Sect. 11. Note.

By the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, the number of overseers to be appointed in addition to the churchwardens for each

appointed from the inhabitant householders in any parish, such justices may appoint one overseer only, and if it shall appear to them that there is no such householder liable or fit to be appointed, they shall appoint some inhabitant householder of an adjoining parish willing to serve to be such overseer, either with or without an annual salary to be paid out of the poor rate of the parish, which last-mentioned appointment shall endure until the usual time of the appointment of overseers, and may be renewed from year to year as long as the justices shall find necessary.

Sect. 11. for small parishes, and inhabitant of adjoining parish may be appointed, with or without salary.

XII. In any parish the same person may hold jointly the offices of churchwarden and overseer.

Churchwarden and overseer.

XIII. The provisions of the tenth section of the Poor Law Amendment Act, 1850, shall extend to the county rate or other rate in the nature of a county rate levied upon the part of the parish therein described situated without the borough; and the auditor shall have the same power, and be under the same obligation, to allow or disallow accounts audited by him under the provisions of the third section of the statute of the twelfth and thirteenth years of Her Majesty, chapter sixty-five, and of the thirty-third section of the County Rates Act, 1852, and to surcharge, certify, and recover all such sums as he shall find due from the persons accounting or making or authorizing any payment, with the like right of appeal to any person aggrieved

Sect. 10 of 13 & 14 Vict. c. 101, extended to the county rate.

Allowance and disallowance of accounts, surcharges, and appeals, in audit of accounts under

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Sect. 11. Note.

parish was to be not less than two nor more than four; and an order of justices appointing one overseer alone for a township was bad (*Rex* v. *Clifton*, 2 East, 168; *Reg.* v. *Cousins*, 4 B. & S. 849; 33 L. J. M. C. 87).

In rural parishes the parish council, and in small parishes the parish meeting, now appoint the overseers (Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 5 (1), 19 (5)).

Sect. 12. Note.

See note to sect. 11, *supra*. In rural parishes churchwardens have ceased to be overseers (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2)).

Sect. 13. Note.

12 & 13 Vict. c. 65, and sect. 10 of the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), are repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 5.

As to right of appeal against the decision of an auditor in the case of a poor rate by *certiorari* to the High Court, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 35; and as to appeals to the Local Government Board, *ib.*, s. 36; the Poor Law Audit Act (11 & 12 Vict. c. 91), s. 4; and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 38.

This section is, however, now rendered practically inoperative by reason of the division of parishes partly in urban and partly in rural districts into separate parishes by the Local Government Act, 1894.

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by his decision, as in the case of the poor rate ; and the Poor Law Board may, as and when they shall see fit, make regulations for the keeping of the said accounts herein-before mentioned or referred to.

12 & 13 Vict. c. 65, s. 3, and 15 & 16 Vict. c. 81, s. 33.

Provision for educating children of dissenters in certified schools.

XIV. If the parent, step-parent, nearest adult relative, or next of kin of any child not belonging to the Established Church relieved in a workhouse or in a district school, or in case there should be no parent, step-parent, nearest adult relative, or next of kin, then the god-parent of such child, make application to the said board in such behalf, the board may, if they think fit, order that such child shall be sent to some school established for the reception, maintenance, and education of children of the religion to which such child shall be proved to belong, and duly certified by the Poor Law Board under the Poor Law (Certified Schools) Act, 1862 ; and the guardians of the union or parish to which such child shall be chargeable shall, according to the terms of such order, cause the child to be conveyed to such school, and pay the cost and charges of the maintenance, lodging, clothing, and education of the said child therein ; and all the provisions of the said statute shall thenceforth apply to the said child.

25 & 26 Vict. c. 43.

Punishment of persons relieved out of the workhouse refusing to perform task of work.

XV. When the guardians of any union or parish shall prescribe a task of work to be performed by any poor person, to whom, or to whose wife, if he be liable to maintain such wife, or child, whether legitimate or illegitimate, under the age of sixteen, relief shall have been lawfully granted by such guardians out of the workhouse, such task being suited to the age, sex, strength, and capacity of such person, and being of a nature and description of which the Poor Law Board shall have previously approved, and such person shall refuse or wilfully neglect to perform such task, or shall wilfully destroy or damage

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Sect. 14.

Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 23, the statute 25 & 26 Vict. c. 43, and this section, shall apply to illegitimate as well as legitimate children; and with regard to illegitimate children the consent of the mother, if she has the care, custody, or possession of the child, shall be sufficient for the purposes of those Acts; and in case of a deserted child or an orphan child on behalf of whom no relative, next of kin, step-parent, or god-parent shall make application, the Local Government Board may exercise the power conferred upon them by this section, upon being satisfied that there is reasonable ground for doing so.

The provisions of this section are expressly declared by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 1 (6), not to be affected by the provisions of that Act.

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Note.

By the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 5, guardians are empowered to set a task of work to be done by any person relieved in a workhouse in return for the food and lodging afforded to such person.

any of the tools, materials, or other property belonging to the said guardians, he shall be deemed to be an idle and disorderly person within the meaning of the Vagrancy Act, 1824, and shall be liable to be prosecuted and punished in the manner therein provided in respect of idle and disorderly persons; and the fifty-ninth section of the Poor Law Amendment Act, 1844, shall apply to any such prosecution.

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5 Geo. 4, c. 83.

7 & 8 Vict. c. 101, s. 59.

[Sect. 16. *The limits imposed by sect.* 51 *of* 7 *&* 8 *Vict. c.* 101, *and sect.* 6 *of* 14 *&* 15 *Vict. c.* 105, *withdrawn:* Repealed by the S. L. R. Act, 1893.]

XVII. In clause three of the statute twenty-fourth and twenty-fifth years of Her Majesty, chapter fifty-five, one year shall be substituted for three years.

Sect. 3 of 24 & 25 Vict. c. 55 amended.

XVIII. [*Interpretation of the word "parish": Repealed by* 52 *&* 53 *Vict. c.* 63, *s.* 41: *see now sect.* 5 *of that Act.*] All the other words used herein shall be construed in the like manner as in the Poor Law Amendment Act, 1834; and the provisions contained therein and in the subsequent statutes explaining and extending the same and not repealed, shall, so far as they shall be consistent herewith, be extended to this statute.

Interpretation and construction.

4 & 5 Will. 4, c. 76.

[Sect. 19. *Short title:* Repealed by the S. L. R. Act, 1893.]

REFORMATORY SCHOOLS ACT, 1866.

29 & 30 VICT. CHAP. 117.

An Act to consolidate and amend the Acts relating to Reformatory Schools in Great Britain. [10th August, 1866.]

[Reformatory schools come under the head of criminal law rather than poor law, and a section of this Act is only inserted here for the sake of the rating decision in the note.]

* * * * *

IV. One of Her Majesty's principal Secretaries of State, herein-after referred to as the Secretary of State, may, upon

Mode of certifying reformatory schools.

This enactment reduces the period in which a married woman deserted by her husband can acquire a status of irremovability from three years to one year.

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Note.

Managers of reformatory schools certified under this section are rateable to the poor rate in respect of the school premises, &c. (*Tunnicliffe* v. *Birkdale Overseers*, 20 Q. B. D. 450; 59 L. T. 190; 36 W. R. 360; 52 J. P. 452, overruling *Sheppard* v. *Bradford Overseers*, 16 C. B. (N. S.) 369; 33 L. J. M. C. 182).

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Note.

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the application of the managers of any reformatory school for the better training of youthful offenders, direct one of Her Majesty's Inspectors of Prisons, who shall be styled the Inspector of Reformatory Schools, to examine into the condition and regulations of the school, and to report to him thereon; and, if satisfied with such report, the Secretary of State may, by writing under his hand, certify that such school is fitted for the reception of such youthful offenders as may be sent there in pursuance of this Act, and the same shall be deemed a certified reformatory school.

Alterations, &c. of buildings to be approved.

No substantial addition or alteration shall be made to or in the buildings of any certified reformatory school without the approval in writing of the Secretary of State.

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INDUSTRIAL SCHOOLS ACT, 1866.

29 & 30 VICT. CHAP. 118.

An Act to consolidate and amend the Acts relating to Industrial Schools in Great Britain. [10th August, 1866.]

Preliminary.

Short title.

[I.] This Act may be cited as the Industrial Schools Act, 1866.

Extent of Act.

II. This Act shall not extend to Ireland.

[Sect. 3. *Repeal of Acts:* Repealed by the S. L. R. Act, 1875.]

Interpretation of terms.

IV. In this Act:—

The term "justice" applies to England only, and means a justice of the peace having jurisdiction in the place where the matter requiring the cognizance of a justice arises:

The term "two justices" applies to England only, and means two or more justices in petty sessions, or the lord

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Sect. 4. Note.

The Prisons Act, 1865 (28 & 29 Vict. c. 126), s. 5, enacts that the prison authorities shall be:—

"(1) As respects any prison belonging to any county, except as herein-after mentioned, or to any riding, division, hundred, or liberty of a county having a separate court of quarter sessions, the justices in quarter sessions assembled.

"(2) As respects any prison belonging to a county divided into ridings or divisions, and maintained at the common expense of such ridings or divisions, the justices of the county assembled at a court of gaol sessions held in manner provided by 5 Geo. 4, c. 12."

[By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (vii.), the business of justices in quarter sessions in respect of the

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mayor or an alderman of the city of London, or a police or stipendiary magistrate or other justice having by law authority to act alone for any purpose with the powers of two justices:

The term "magistrate" applies to Scotland only, and includes sheriff, sheriff substitute, justice of the peace of a county, judge in a police court, and provost or baillie of a city or burgh:

The term "prison authority" with respect to England has the same meaning as in the Prisons Act, 1865, and with respect to Scotland means the administrators of a prison as defined by the Prisons (Scotland) Administration Act, 1860: 28 & 29 Vict. c. 126. 23 & 24 Vict. c. 105.

The term "parish" includes a place separately maintaining its own poor.

Industrial Schools.

Description of industrial schools and managers.

V. A school in which industrial training is provided, and in which children are lodged, clothed, and fed, as well as taught, shall exclusively be deemed an industrial school within the meaning of this Act.

The persons for the time being having the management or control of such a school shall be deemed the managers thereof for the purposes of this Act.

Inspector.

Inspector of Industrial Schools and assistant.

VI. Such one of Her Majesty's Inspectors of Prisons as one of Her Majesty's principal Secretaries of State (in this Act referred to as the Secretary of State) from time to time thinks fit to appoint to be the Inspector of Reformatory Schools shall be also the Inspector of Industrial Schools.

The Secretary of State may from time to time appoint a fit person to assist the inspector; and every person so appointed shall have such of the powers and duties of the Inspector of Industrial Schools as the Secretary of State from time to time prescribes, but shall act under the direction of the inspector.

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Note.

establishment and maintenance of and contribution to reformatory and industrial schools is transferred to the county council.]

"(3) As respects any prison belonging to the city of London, or the liberties thereof, the Court of the Lord Mayor and Aldermen.

"(4) As respects any prison belonging to a municipal borough, the council of the borough.

"(5) As respects any prison belonging to any district, liberty, city, borough, or town having a separate prison jurisdiction, and not herein-before mentioned; the justices, council, or other persons having power at law to build, enlarge, or repair such prison, assembled at any gaol session or other formal meeting of their body."

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Certified Industrial Schools.

Mode of certifying industrial schools.

VII. The Secretary of State may, on the application of the managers of an industrial school, direct the Inspector of Industrial Schools to examine into the condition of the school, and its fitness for the reception of children to be sent there under this Act, and to report to him thereon, and the inspector shall examine and report accordingly.

If satisfied with the report of the inspector the Secretary of State may, by writing under his hand, certify that the school is fit for the reception of children to be sent there under this Act, and thereupon the school shall be deemed a certified industrial school.

School not to be both industrial and reformatory.

VIII. A school shall not be at the same time a certified industrial school under this Act and a certified reformatory school under any other Act.

Notice of certificate to be gazetted.

IX. A notice of the grant of each certificate shall within one month be inserted by order of the Secretary of State in the *London* or in the *Edinburgh Gazette*, according as the school to which it refers is in England or in Scotland.

Evidence of grant of certificate.

A copy of the gazette containing the notice shall be conclusive evidence of the grant, which may also be proved by the certificate itself, or by an instrument purporting to be a copy of the certificate, and to be attested as such by the Inspector of Industrial Schools.

Inspection of schools.

X. Every certified industrial school shall from time to time, and at least once in each year, be inspected by the Inspector of Industrial Schools, or by a person appointed to assist him as aforesaid.

Alterations, &c. of buildings to be approved.

XI. No substantial addition or alteration shall be made to or in the buildings of any certified industrial school without the approval in writing of the Secretary of State.

Contribution by prison authorities in

XII. In England a prison authority may from time to time contribute such sums of money, and on such conditions as they

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Sect. 12. Note.

By the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 27, as extended by the Reformatory and Industrial Schools Acts Amendment Act, 1872 (35 & 36 Vict. c. 21), s. 8, a school board has the same powers of contributing money in the case of an industrial school as is given to a prison authority by this section; and upon the election of a school board in a borough the council of that borough ceases to have power to contribute under this section. By sect. 28 of the same Act a school board may, with the consent of

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England to establishment and enlargement of schools.

think fit, towards the alteration, enlargement, or rebuilding of a certified industrial school,—or towards the support of the inmates of such a school,—or towards the management of such a school,—or towards the establishment or building of a school intended to be a certified industrial school,—or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school; provided,—

First, that not less than two months' previous notice of the intention of the prison authority to take into consideration the making of such contribution, at a time and place to be mentioned in such notice, be given by advertisement in some one or more public newspaper or newspapers circulated within the district of the county or borough, and also in the manner in which notices relating to business to be transacted by the prison authority are usually given:

Secondly, that where the prison authority is the council of a borough, the order for the contribution be made at a special meeting of the council:

Thirdly, that where the contribution is for alteration, enlargement, rebuilding, establishment, or building of a school or intended school, or for purchase of land, the approval of the Secretary of State be previously given for that alteration, enlargement, rebuilding, establishment, building, or purchase.

Contribution in Scotland.

In Scotland a county board may contribute to any certified industrial school with the consent and in the manner provided by the Prisons (Scotland) Administration Act, 1860, respecting contributions to reformatories.

Sect. 12.

Note.

the Educational Department, establish and maintain a certified industrial school. By the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 16, day industrial schools may be established.

By the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 14, where a school board exercises the power of a prison authority under this Act not less than *fourteen days*' instead of not less than *two months*' previous notice shall be given of the intention of the school board to take into consideration the making of the contribution mentioned in this section.

By the Reformatory and Industrial Schools Acts Amendment Act, 1872 (35 & 36 Vict. c. 21), s. 7, this section is extended to authorize the prison authority themselves to undertake anything towards which they are authorized by this section to contribute.

By the Elementary Education (Industrial Schools) Act, 1879 (42 & 43 Vict. c. 48), s. 2, a school board are authorized themselves to undertake anything towards which they are authorized by this Act as applied by the Elementary Education Acts, 1870, 1873, and by the Elementary Education Act, 1876, to contribute.

Sect. 13.

Mode of obtaining approval of Secretary of State.

XIII. In order to obtain the approval of the Secretary of State as aforesaid where required, the managers of the school, or promoters of the intended school, shall forward to the Secretary of State particulars of the proposed establishment or purchase, and a plan of the proposed alteration, enlargement, rebuilding, or building, drawn on such scale, and accompanied by such particulars and estimate of cost, as the Secretary of State thinks fit to require; and the Secretary of State may approve of the particulars and plan submitted to him, with or without modification, or may disapprove of the same, and his approval or disapproval shall be certified by writing under his hand.

Classes of Children to be detained in Certified Industrial Schools.

Children under fourteen years of age found begging, &c. may be sent to industrial schools.

XIV. Any person may bring before two justices or a magistrate any child apparently under the age of fourteen years that comes within any of the following descriptions, namely,—

That is found begging or receiving alms (whether actually or under the pretext of selling or offering for sale anything), or being in any street or public place for the purpose of so begging or receiving alms;

That is found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence;

That is found destitute, either being an orphan or having a surviving parent who is undergoing penal servitude or imprisonment;

That frequents the company of reputed thieves.

[That is lodging, living, or residing with common or reputed prostitutes, or in a house resided in or frequented by prostitutes for the purpose of prostitution.

That frequents the company of prostitutes.]

The justices or magistrate before whom a child is brought

Sect. 14.

Note.

The words in brackets are added by the Industrial Schools Amendment Act, 1880 (43 & 44 Vict. c. 15), s. 1; and by the Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112), s. 14, children of a woman twice convicted of crime who have no visible means of subsistence or are without proper guardianship, may be sent to an industrial school in the same way as children described in this section.

This Act does not contain a code of criminal procedure, and is not punitive in its character, but is intended for the protection of children coming within its operation. Where, therefore, a child apparently under fourteen years of age is charged before justices with larceny and the charge is dismissed, but evidence is given that he frequents the company of reputed thieves, he may be sent to an industrial school under this section, upon an application under this section, without being brought afresh before the court by summons or otherwise (*Reg.* v. *Jennings*, [1896] 1 Q. B. 64; 65 L. J. M. C. 26; 73 L. T. 412; 44 W. R. 128; 60 J. P. 199).

as coming within one of those descriptions, if satisfied on inquiry of that fact, and that it is expedient to deal with him under this Act, may order him to be sent to a certified industrial school. Sect. 14.

XV. Where a child apparently under the age of twelve years is charged before two justices or a magistrate with an offence punishable by imprisonment or a less punishment, but has not been in England convicted of felony, or in Scotland of theft, and the child ought, in the opinion of the justices or magistrate (regard being had to his age and to the circumstances of the case), to be dealt with under this Act, the justices or magistrate may order him to be sent to a certified industrial school. Children under twelve years of age charged with offences may be sent to industrial schools.

XVI. Where the parent or step-parent or guardian of a child apparently under the age of fourteen years represents to two justices or a magistrate that he is unable to control the child, and that he desires that the child be sent to an industrial school under this Act, the justices or magistrate, if satisfied on inquiry that it is expedient to deal with the child under this Act, may order him to be sent to a certified industrial school. Refractory children under fourteen years of age may be sent to industrial schools.

XVII. Where the guardians of the poor of a union or of a parish wherein relief is administered by a board of guardians, or the board of management of a district pauper school, or the parochial board of a parish or combination, represent to two justices or a magistrate that any child apparently under the age of fourteen years maintained in a workhouse or pauper school of a union or parish, or in a district pauper school, or in the poorshouse of a parish or combination is refractory, or is the child of parents either of whom has been convicted of a crime or offence punishable with penal servitude or imprisonment, and that it is desirable that he be sent to an industrial school under this Act, the justices or magistrates may, if satisfied that it is expedient to deal with the child under this Act, order him to be sent to a certified industrial school. Refractory children under fourteen years of age in workhouses, &c., may be sent to industrial schools.

Order of Detention.

XVIII. The order of justices or a magistrate sending a child to a school (in this Act referred to as the order of detention in a school) shall be in writing signed by the justices or magistrate, and shall specify the name of the school. Form and contents of order sending child to school.

The school shall be some certified industrial school (whether situate within the jurisdiction of the justices or magistrate making the order or not) the managers of which are willing to receive Liabilities of managers to children received.

As to district school boards, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 40. Sect. 17. Note.

Sect. 18.

the child; and the reception of the child by the managers of the school shall be deemed to be an undertaking by them to teach, train, clothe, lodge, and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the children detained in the school is discontinued, whichever shall first happen.

The school named in the order shall be presumed to be a certified industrial school until the contrary is shown.

Regard to be had to religious persuasion of child.

In determining on the school the justices or magistrate shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, select a school conducted in accordance with such religious persuasion, and the order shall specify such religious persuasion.

Order to specify time of detention.

The order shall specify the time for which the child is to be detained in the school, being such time as to the justices or magistrate seems proper for the teaching and training of the child, but not in any case extending beyond the time when the child will attain the age of sixteen years.

Temporary detention in workhouse, &c.

XIX. Two justices or a magistrate, while inquiry is being made respecting a child or respecting a school to which he may be sent, may, by order signed by them or him, order the child to be taken to the workhouse or poorshouse of the union, parish, or combination in which he is found or resident,—or where (in Scotland) there is no such poorshouse, or the poorshouse is at an inconvenient distance, to such other place, not being a prison, as the magistrate thinks fit, the occupier whereof is willing to receive him,—and to be detained therein at the cost of the union, parish, or combination for any time not exceeding seven days, or until an order is sooner made for his discharge or for his being sent to a certified industrial school; and the guardians of the poor for the union or parish, or the keeper of the poorshouse, or other person to whom the order is addressed, are and is hereby empowered and required to detain him accordingly.

Power to parent, &c. to apply for removal of child to a school conducted in accordance with child's religious persuasion.

XX. If the parent, step-parent, or guardian, or if there be no parent, step-parent, or guardian, then the god-parent or nearest adult relative, of a child sent or about to be sent to a certified industrial school which is not conducted in accordance with the religious persuasion to which the child belongs, states to the justices or magistrate by whom the order of detention has been or is about to be made (or to two justices or a magistrate having the like jurisdiction) that he objects to the child being sent to or detained in the school specified or about to be specified in the order, and names another certified industrial

school in Great Britain which is conducted in accordance with the religious persuasion to which the child belongs, and signifies his desire that the child be sent thereto, then and in every such case the justices or magistrate shall, upon proof of such child's religious persuasion, comply with the request of the applicant, provided,—

First, that the application be made before the child has been sent to a certified industrial school, or within thirty days after his arrival at such a school:

Secondly, that the applicant show to the satisfaction of the justices or magistrate that the managers of the school named by him are willing to receive the child: [Proviso as to Scotland.]

* * * * *

[Sect. 21 relates only to Scotland.]

Order to be warrant for conveyance and detention.

XXII. The order of detention in a school shall be forwarded to the managers of the school with the child, and shall be a sufficient warrant for the conveyance of the child thither, and his detention there.

Expenses of conveyance to school.

XXIII. The expense of conveying to a certified industrial school a child ordered to be sent there shall be defrayed by the police authorities by whom he is conveyed, and shall be deemed part of the current expenses of those police authorities.

Evidence of order of detention.

XXIV. An instrument purporting to be an order of detention in a school and to be signed by two justices or a magistrate, or purporting to be a copy of such an order and to be certified as such a copy by the clerk to the justices or magistrate by whom the order was made, shall be evidence of the order.

Management of School.

Visitation of children by ministers of their religious persuasion.

XXV. A minister of the religious persuasion specified in the order of detention as that to which the child appears to the justices or magistrate to belong may visit the child at the school on such days and at such times as are from time to time fixed by regulations made by the Secretary of State for the purpose of instructing him in religion.

Lodging child out of school.

XXVI. The managers of a school may permit a child sent there under this Act to lodge at the dwelling of his parent

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Note.

By the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 36, a school board may appoint officers to enforce bye-laws as to attendance, and to bring children liable to be sent to an industrial school before the justices, and any expenses thereby incurred may be paid out of the school fund.

Sect. 26.

or of any trustworthy and respectable person, so that the managers teach, train, clothe, and feed the child in the school as if he were lodging in the school itself, and so that they report to the Secretary of State, in such manner as he thinks fit to require, every instance in which they exercise a discretion under this section.

Licence for living out of school.

XXVII. The managers of a school may, at any time after the expiration of eighteen months of the period of detention allotted to a child, by a licence under their hands, permit him to live with any trustworthy and respectable person named in the licence, and willing to receive and take charge of him.

Duration of licence.

Any licence so granted shall not be in force for more than three months, but may at any time before the expiration of those three months be renewed for a further period not exceeding three months, to commence from the expiration of the previous period of three months, and so from time to time until the period of the child's detention is expired.

Revocation of licence.

Any such licence may also be revoked at any time by the managers of the school by writing under their hands, and thereupon the child to whom the licence related may be required by them, by writing under their hands, to return to the school.

Residence under licence to be deemed part of time of detention.

The time during which a child is absent from a school in pursuance of a licence shall, except where such licence has been forfeited by his misconduct, be deemed to be part of the time of his detention in the school, and at the expiration of the time allowed by the licence he shall be taken back to the school.

Penalty on child escaping or not returning to school on expiration of licence.

A child escaping from the person with whom he is placed under a licence, or refusing to return to the school on the revocation of his licence, or at the expiration of the time allowed thereby, shall be deemed to have escaped from the school.

Power to apprentice child.

XXVIII. The managers of a school may, at any time after a child has been placed out on licence as aforesaid, if he conducted himself well during his absence from the school, bind him, with his own consent, apprentice to any trade, calling, or service, notwithstanding that his period of detention has not expired, and every such binding shall be valid and effectual to all intents.

Sect. 27.

Note.

By the Industrial Schools Acts Amendment Act, 1894 (57 & 58 Vict. c. 33), s. 1, a child sent to an industrial school after the passing of that Act is to remain under the supervision of the managers until the age of eighteen, and during that time a licence may be granted in the manner provided by this section, and also may be revoked and the child recalled to school.

Sect. 29.

XXIX. The managers of a certified industrial school may from time to time make rules for the management and discipline of the school, not being inconsistent with the provisions of this Act; but those rules shall not be enforced until they have been approved in writing by the Secretary of State; and rules so approved shall not be altered without the like approval.

Power to make rules for school to be approved by Secretary of State.

A printed copy of rules purporting to be the rules of a school so approved and to be signed by the Inspector of Industrial Schools shall be evidence of the rules of the school.

Evidence of rules.

XXX. A certificate purporting to be signed by one of the managers of a certified industrial school or their secretary, or by the superintendent or other person in charge of the school to the effect that the child therein named was duly received into and is at the signing thereof detained in the school, or has been duly discharged or removed therefrom or otherwise disposed of according to law, shall be evidence of the matters therein stated.

Evidence as to reception in school, &c.

XXXI. The time during which a child is detained in a school under this Act shall for all purposes be excluded in the computation of time mentioned in section one of the Act of the session of the ninth and tenth years of Her Majesty's reign (chapter sixty-six), "to amend the laws relating to the removal of the poor," as amended by any other Act.

Liability to removal under 9 & 10 Vict. c. 66, &c. not affected by stay at school.

Offences at School, &c.

XXXII. If a child sent to a certified industrial school, and while liable to be detained there, being apparently above ten years of age, and whether lodging in the school itself or not, wilfully neglects or wilfully refuses to conform to the rules of the school, he shall be guilty of an offence against this Act, and on summary conviction thereof before two justices or a magistrate shall be liable to be imprisoned, with or without hard labour, for any term not less than fourteen days and not exceeding three months, and the justices or magistrate before whom he is convicted may direct him to be sent at the expiration of the term of his imprisonment to a certified reformatory school, and to be there detained subject and according to the provisions of the Reformatory Schools Act, 1866.

Refusal to conform to rules.

29 & 30 Vict. c. 117.

XXXIII. If a child sent to a certified industrial school, and while liable to be detained there, and whether lodging in the school itself or not, escapes from the school, or neglects to attend thereat, he shall be guilty of an offence against this Act, and may at any time before the expiration of his period of detention be apprehended without warrant, and may (any other Act to the contrary notwithstanding) be then brought before a justice or magistrate having jurisdiction in the place

Penalty on child escaping from school.

Sect. 33.

or district where he is found, or in the place or district where the school from which he escaped is situate; and he shall thereupon be liable, on summary conviction before such a justice or magistrate, to be, by and at the expense of the managers of the school, brought back to the same school, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his committing the offence.

If the child charged with such an offence is apparently above ten years of age, then on his summary conviction of the offence before two such justices or such a magistrate he shall be liable, at the discretion of the justices or magistrate, instead of being sent back to the same school, to be imprisoned with or without hard labour for any term not less than fourteen days and not exceeding three months, and the justices or magistrate before whom he is convicted may direct him to be sent at the expiration of the term of his imprisonment to a certified reformatory school, and to be there detained subject and according to the provisions of the Reformatory Schools Act, 1866.

29 & 30 Vict. c. 117.

Penalty on persons assisting or inducing children to escape from certified industrial schools or harbouring children who have escaped.

XXXIV. If any person does any of the following things, (that is to say,)—

First, knowingly assists, directly or indirectly, a child liable to be detained in a certified industrial school to escape from the school;

Second, directly or indirectly induces such a child so to escape;

Third, knowingly harbours or conceals a child who has so escaped, or prevents him from returning to school, or knowingly assists in so doing;

[Fourth, knowingly assists or induces, directly or indirectly, a child placed on licence to escape from any person with whom the child is so placed on licence, or prevents the child from returning to any person aforesaid;]

Every such person shall be guilty of an offence against this Act, and shall, on summary conviction thereof before two justices or a magistrate, be liable to a penalty not exceeding twenty pounds, or, at the discretion of the justices, to be imprisoned for any term not exceeding two months, with or without hard labour.

Expenses of Children in Schools.

Power to Treasury to contribute towards

XXXV. The Treasury may from time to time contribute, out of money provided by Parliament for the purpose, such sums as the Secretary of State from time to time thinks fit to

Sect. 34. Note.

The words in brackets are added by the Industrial Schools Acts Amendment Act, 1894 (57 & 58 Vict. c. 33), s. 2.

recommend towards the custody and maintenance of children detained in certified industrial schools; provided that such contributions shall not exceed two shillings per head per week for children detained on the application of their parents, step-parents, or guardians.

Sect. 35. custody, &c. of children detained.

XXXVI. In England a prison authority may contract with the managers of a certified industrial school for the reception and maintenance therein of such children as are from time to time ordered by justices to be sent there from the district of the prison authority.

Contracts with managers in England for reception of children in schools.

XXXVII. The guardians of the poor of a union or parish, or the board of management of a district pauper school, or the parochial board of a parish or combination, may from time to time, with the consent in England of the Poor Law Board and in Scotland of the Board of Supervision, contribute such sums as they think fit towards the maintenance of children detained in a certified industrial school on their application.

Power to guardians of poor, &c. to contribute.

[Sect. 38 relates to Scotland only.]

XXXIX. The parent, step-parent, or other person for the time being legally liable to maintain a child detained in a certified industrial school shall, if of sufficient ability, contribute to his maintenance and training therein a sum not exceeding five shillings per week.

Contribution by parent, &c.

XL. On the complaint of the Inspector of Industrial Schools, or of any agent of the inspector, or of any constable under the directions of the inspector (with which directions every constable is hereby required to comply), at any time during the detention of a child in a certified industrial school, two justices or a magistrate having jurisdiction at the place where the parent, step-parent, or other person liable as aforesaid resides may, on summons to the parent, step-parent, or other person liable as aforesaid, examine into his ability to maintain the child, and may, if they or he think fit, make an order or decree on him for the payment to the inspector or his agent of such weekly sum, not exceeding five shillings per week, as to them

Order of justices for contribution by parent, &c.

Sect. 37. Note.

For "Poor Law Board" read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 39. Note.

See the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 7, for the persons legally liable to maintain a child.

Sect. 40. Note.

[The portion of this section which is omitted refers only to Scotland.]

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or him seems reasonable, during the whole or any part of the time for which the child is liable to be detained in the school.

Every such order or decree may specify the time during which the payment is to be made, or may direct the payment to be made until further order.

* * * * *

Payments to go in relief of charges on Treasury.

Every such payment or a proper proportionate part thereof shall go in relief of the charges on Her Majesty's Treasury, and the same shall be accounted for as the Treasury direct, and where the amount of the payment ordered in respect of any child exceeds the amount contributed by the Treasury in respect of that child, the balance shall be accounted for and paid to the managers of the school.

Remission of payments.

The Secretary of State may, in his discretion, remit wholly or partially any payment so ordered.

Variation of orders.

Two justices or a magistrate having jurisdiction to make such an order or decree may from time to time vary any such order or decree as circumstances require, on the application either of the person on whom such order or decree is made, or of the Inspector of Industrial Schools, or his agent, on fourteen days' notice being first given of such application to the inspector or agent, or to such person respectively.

Discharge, &c., of Children from School.

Detention to cease on child attaining sixteen.

XLI. A person who has attained the age of sixteen years shall not be detained in a certified industrial school, except with his own consent in writing.

Transfer from one school to another, and removal to industrial schools of children detained under other Acts.

XLII. The Secretary of State may at any time order a child to be transferred from one certified industrial school to another, but so that the whole period of his detention be not thereby increased.

The Secretary of State may also at any time order a child being under sentence of detention in an industrial school established under any other Act of Parliament, the general rules for the government whereof have been approved by the Secretary of State, to be transferred to a certified industrial school under this Act; and in that case the child shall after the transfer be deemed to be subject in all respects to the provisions of this Act, but so that the whole period of his detention be not by such transfer increased.

Payment by Treasury of

Sect. 41.

The Treasury may pay, out of money provided by Parliament

Note.

By the Industrial Schools Acts Amendment Act, 1894 (57 & 58 Vict. c. 33), s. 1, a child sent to an industrial school after the passing of that Act is to remain after the period of detention has expired under the supervision of the managers of the school until eighteen years of age.

Sect. 42.

for the purpose, such sum as the Secretary of State thinks fit to recommend, in discharge of the expenses of the removal of any child transferred under the provisions of this Act.

expenses of removal.

XLIII. The Secretary of State may at any time order any child to be discharged from a certified industrial school or from any industrial school established under any other Act of Parliament, the general rules for the government whereof have been approved by the Secretary of State, either absolutely or on such condition as the Secretary of State approves, and the child shall be discharged accordingly.

Discharge by order of Secretary of State from industrial schools.

Withdrawal, &c, of Certificate of School.

XLIV. The Secretary of State, if dissatisfied with the condition of a certified industrial school, may at any time, by notice under his hand addressed to and served on the managers thereof, declare that the certificate of the school is withdrawn as from a time specified in the notice, not being less than six months after the date thereof; and at that time the certificate shall be deemed to be withdrawn accordingly, and the school shall thereupon cease to be a certified industrial school.

Power of Secretary of State to withdraw certificate.

XLV. The managers or the executors or administrators of a deceased manager (if only one) of a certified industrial school may give notice in writing to the Secretary of State of their intention to resign the certificate of that school, and at the expiration in the case of managers of six months, and in the case of executors or administrators of one month, from the receipt of that notice by the Secretary of State (unless before that time the notice is withdrawn) the certificate shall be deemed to be resigned accordingly, and the school shall thereupon cease to be a certified industrial school.

Resignation of certificate by managers.

XLVI. A notice of the withdrawal or resignation of the certificate of a certified industrial school shall within one month be inserted by order of the Secretary of State in the *London* or in the *Edinburgh Gazette*, according as the school is in England or Scotland.

Gazetting and evidence of withdrawal, &c.

A copy of the Gazette containing such notice shall be conclusive evidence of such withdrawal or resignation.

A certificate shall be presumed to be in force until the withdrawal or resignation thereof is proved.

XLVII. Where notice is given of the withdrawal or resignation of the certificate of a certified industrial school no child shall be received into the school for detention under this Act after the receipt by the managers of the school of the notice of withdrawal, or after the date of the notice of resignation, as the case may be; but the obligation of the managers to teach,

Cesser of reception of children on notice of withdrawal or resignation.

Sect. 47.

train, clothe, lodge, and feed any children detained in the school at the time of such receipt or at the date of such notice shall, except as far as the Secretary of State otherwise directs, be deemed to continue until the withdrawal or resignation of the certificate takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the children detained in the school is discontinued, whichever shall first happen.

Discharge, &c. of children on withdrawal or resignation.

XLVIII. Where a school ceases to be a certified industrial school the children detained therein shall be either discharged or transferred to some other certified industrial school by order of the Secretary of State.

[Sect. 49 relates to Scotland only.]

Expenses of Prison Authorities, &c.

Expenses of prison authorities and county boards, how defrayed.

L. Expenses incurred by a prison authority in England in carrying into effect the provisions of this Act shall be deemed expenses incurred by that authority in carrying into effect the provisions of the Prison Act, 1865, and shall be defrayed accordingly.

28 & 29 Vict. c. 126.

* * * * *

Miscellaneous.

LI. The following Acts—

In England, the Summary Jurisdiction (England) Acts;

In Scotland, the Summary Procedure Act, 1864,—

Summary proceedings.

11 & 12 Vict. c. 43, &c.

Shall apply to all offences, payments, and orders in respect of which jurisdiction is given to justices or a magistrate by this Act, or which are by this Act directed to be prosecuted, enforced, or made in a summary manner or on summary conviction.

Summonses, &c. not invalid for want of form.

Use of forms in schedule.

LII. No summons, notice, or order made for the purpose of carrying into effect the provisions of this Act shall be invalidated for want of form only; and the forms in the schedule to this Act annexed, or forms to the like effect, may be used in the cases to which they refer, with such variations as circumstances require, and when used shall be deemed sufficient.

Service of notices on managers.

LIII. Any notice may be served on the managers of a certified industrial school by being delivered to any one of

Sect. 50. Note.

But see now the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (vii.).

Sect. 53. Note.

As to service by post, see Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 26.

them personally, or being sent by post or otherwise in a letter addressed to them or any of them at the school, or at the usual or last known place of abode of any of the managers, or of their secretary. Sect. 53.

LIV. This Act shall apply to all certified industrial schools being such at the passing of this Act. Application of Act to existing certified schools.

[First Schedule: Repealed by the S. L. R. Act, 1875.]

THE SECOND SCHEDULE.

FORMS.

(A.)

Order sending Child to Industrial School.

} Be it remembered, that on the day of in
to wit. } pursuance of the Industrial Schools Act, 1866, we, two of Her Majesty's justices of the peace for the said [*county*] of , do order that *A. B.* of (whose religious persuasion appears to us to be), being a child subject to the provisions of section of the said Act, be sent to the certified industrial school at , and that he be detained there during

(Signed) *L. M.*
N. O.

(C.)

Complaint for enforcing in England Contribution from Parent, &c.

} The complaint of the Inspector of Industrial Schools
to wit. } [*or as the case may be*] made to us, the undersigned, two of Her Majesty's justices of the peace for the said county of , this day of at in the same county, who says, that one *A. B.* of (*) the age of years, or thereabouts, is now detained in the industrial school at in the county of , under the Industrial Schools Act, 1866, and has been duly ordered and directed to be detained therein until the day of : That one *C. B.* dwelling in the parish of in the county of is the parent [*or* step-parent, *&c.*] of the said *A. B.*, and is of sufficient ability to contribute to the support and maintenance of the said *A. B.*, his son: (*) The said complainant therefore prays that the said *C. B.* may be summoned to show cause why an order should not be made on him so to contribute.

Exhibited before us, *C. D.*
J. S.
L. M.

Schedules.

(D.)

Summons to Parents, &c.

(*This will be in Form* (A.) *in Schedule to* 11 & 12 *Vict. c.* 43.)

(E.)

Order on Parent, &c., to contribute a Weekly Sum.

} Be it remembered that on this day of
to wit. } at in the said [*county*] of a certain complaint of the Inspector of Industrial Schools [*or as the case may be*], for that one *A. B.* of, *&c.* [*stating the cause of complaint as in the Form* (C.) *between the asterisks* (*) (*)], was duly heard by and before us, the undersigned, two of Her Majesty's justices of the peace in and for the said [*county*] of (in the presence and hearing of the said *C. B.*, *if so, or* the said *C. B.* not appearing to the summons duly issued and served in this behalf); and we, having duly examined into the ability of the said *C. B.* and on consideration of all the circumstances of the case, do order the said *C. B.* to pay to the said inspector [*or* to an agent of the said inspector] the sum of shillings per week from the date of this order until the day of , the same to be paid at the expiration of each [fourteen, *or as the case may be*, days].

Given under our hands and seals, the day and year first above mentioned, at in the [*county*] aforesaid.

J. S. (L. S.)
L. M. (L. S.)

(F.)

Distress Warrant for Amount in arrear.

} To the constable of , and to all other peace
to wit. } officers in the said [*county*] of

Whereas on the hearing of a complaint made by the Inspector of Industrial Schools, [*or as the case may be,*] that *A. B.* of, *&c.* [*stating the cause of complaint as in the Form* (C.) *between the asterisks* (*) (*)], an order was made on the day of by us, the undersigned [*or* by *L. M.* and *J. H.*], two of Her Majesty's justices of the peace in and for the said [*county*] of against the said *C. B.*, to pay to the said inspector [*or as the case may be*], the sum of per week from the date of the said order until the day of , the same to be paid at the expiration of each [*twenty-eight*] days [*or as the case may be*] (*): And whereas there is due upon the said order the sum of being for [*three*] periods of [*fourteen*] days each, and default has been made therein for the space of fourteen days:

These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said *C. B.*, and if within the space of [*five*] days next after the

making of such distress the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, is not paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the clerk of the justices of the peace for the of that he may pay and apply the same as by law directed, and may render the overplus (if any), on demand, to the said *C. B.*; and if no such distress can be found, then that you certify the same to us, to the end that such proceedings may be had therein as the law requires.

Given under our hands and seals, this day of at in the [*county*] aforesaid.

J. S. (L. S.)
L. M. (L. S.)

(G.)

Commitment in default of Distress.

To the constable of and to the keeper of the [*prison*] at in the said [*county*] of to wit.

Whereas [*&c., as in the Form* (F.) *to the single asterisk* (*), *and then thus*]: And whereas afterwards, on the day of last I, the undersigned, together with *L. M.*, Esquire, [*or J. S.* and *L. M.*, Esquires,] two of Her Majesty's justices of the peace in and for the said [*county*] of , issued a warrant to the constable of aforesaid, commanding him to levy the sum of due upon the said recited order, being for [*three*] periods of [*fourteen*] days, by distress and sale of the goods and chattels of the said *C. B.*: And whereas a return has this day been made to me the said justice [*or* the undersigned, one of Her Majesty's justices of the peace in and for the said [*county*] of], that no sufficient goods of the said *C. B.* can be found:

These are therefore to command you, the said constable of to take the said *C. B.*, and him safely to convey to the [*prison*] at aforesaid, and there deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said [*prison*] to receive the said *C. B.* into your custody in the said [*prison*], there to imprison him for the term of , unless the said sum, and all costs and charges of the said distress, and of the commitment and conveying of the said *C. B.* to the said [*prison*], amounting to the further sum of , shall be sooner paid unto you the said keeper; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this day of in the year of our Lord , at in the [*county*] aforesaid.

J. S. (L. S.)

(H.)

Order in Scotland on Parent for Payment towards Maintenance of Child.

* * * * *

METROPOLITAN POOR ACT, 1867.

30 & 31 VICT. CHAP. 6.

An Act for the Establishment in the Metropolis of Asylums for the Sick, Insane, and other Classes of the Poor, and of Dispensaries; and for the Distribution over the Metropolis of Portions of the Charge for Poor Relief; and for other Purposes relating to Poor Relief in the Metropolis.*

[29th March, 1867.]

Preliminary.

Short title.

[I.] This Act may be cited as "The Metropolitan Poor Act, 1867."

II. In this Act—

Interpretation.

The term "the Poor Law Acts" means the Poor Law Amendment Act, 1834, and the Acts extending or amending the same:

4 & 5 Will. 4, c. 76.

Words in this Act have the same meaning as in the Poor Law Acts.

Limitation of Act to the metropolis, as defined by 18 & 19 Vict. c. 120.

III. This Act extends only to unions and parishes not in union which are wholly or for the greater part thereof respectively included in the metropolis as defined by the Metropolis Management Act, 1855; and in this Act the term "the metropolis" means the metropolis as so defined.

Orders of Poor Law Board under this Act.

IV. Any order of the Poor Law Board under this Act shall not be deemed a general order within the operation of the Poor Law Acts, although addressed to more than one union or parish.

District Asylums.

Asylums may be provided under this Act.

V. Asylums to be supported and managed according to the provisions of this Act may be provided under this Act for

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 3. Note.

For this definition, see 18 & 19 Vict. c. 120, s. 250, and schedules (A.), (B.), (C.).

Sect. 4. Note.

A general order is defined by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 4, and the Poor Law Amendment Act, 1847 (10 & 11 Vict. c. 109), s. 15, to be an order directed to and affecting more than one union; and by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 1, a general order must be laid before Parliament.

Sect. 5. Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 40, it is declared that the powers given by

reception and relief of the sick, insane, or infirm, or other class or classes of the poor chargeable in unions and parishes in the metropolis (and in this Act the term "asylum" means an asylum provided under this Act). Sect. 5.

VI. In order to the provision of asylums, the Poor Law Board may from time to time by order combine into districts unions Formation of districts.

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this section and sect. 6 may be exercised by the Local Government Board in order to the provision of asylums, workhouses, or other buildings for the reception of any class or classes of the poor chargeable in the metropolis. Sect. 5. Note.

By the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 11, guardians and managers may provide ships for the training of boys for the sea service, and every such ship is to be deemed to be a school or asylum.

By an order under this Act dated May 15th, 1867, the Poor Law Board formed the unions and separate parishes mentioned in the schedule into a district, to be termed the "Metropolitan Asylum District" for the reception and relief of the classes of poor persons chargeable to some union or parish in the said district, who might be infected with or suffering from fever or small-pox, or might be insane. The area of this district has been varied by subsequent orders. (See Macmorran & Lushington's Poor Law Orders, p. 856.) Sect. 6. Note.

By an order of October 11th, 1889, diphtheria was included in the above-mentioned diseases; and by an order of April 2nd, 1897, the Local Government Board directed that the poor persons chargeable to some union or parish in the metropolitan asylum district for whose reception and relief the said district should be deemed to be formed should include the following classes of poor persons so chargeable; that is to say,—(*a*) children suffering from ophthalmia or other contagious disease of the eye; (*b*) children suffering from contagious disease of the skin or scalp; (*c*) children requiring either special treatment during convalescence or the benefit of sea-side air; (*d*) children who by reason of defect of intellect or physical infirmity cannot properly be trained in association with children in ordinary schools; and (*e*) children who are ordered by two justices or a magistrate to be taken, under the Industrial Schools Act, 1866, to a workhouse or an asylum of the district.

Sick asylum districts have also been created by orders dated April 23rd, 1868 (Poplar and Stepney), and May 2nd, 1868 (Central London), for the relief of persons chargeable who might be sick and require to be treated in a hospital or infirmary.

Power to dissolve asylum districts is given by the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 1.

Where the Local Government Board alter any district formed under this Act, they may ascertain the proportionate value of the property and the amount of the obligations of every parish or union affected by the change and may fix the amount to be received, or paid, or secured to be paid by every such parish or union (Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 9).

Sect. 6.

or parishes, or unions and parishes, in the metropolis, as they think fit, and may from time to time alter any such district by addition, sub-division, separation of part, or otherwise (and in this Act the term "the district" means, in relation to each asylum, the district for which that asylum is for the time being provided).

Number of asylums.

VII. For each district there shall be an asylum or asylums, as the Poor Law Board from time to time by order direct.

Managers of asylums.

VIII. For the asylum or asylums of each district there shall be a body of managers constituted as in this Act provided, which managers and their successors are hereby incorporated by the name of the managers of the asylum district, and by that name shall be one body corporate, with perpetual succession and a common seal, and with power, subject and according to the orders of the Poor Law Board, to take, hold, and dispose of lands and other property for purposes of the asylum district (and in this Act the term "the managers" means, in relation to each asylum district, the managers thereof for the time being).

Constitution of managers.

IX. The managers shall (subject to the provisions of this Act) be partly elective and partly nominated.

Elective managers.

X. Elective managers shall be from time to time elected by the guardians of each of the several unions and parishes forming the district from among themselves, or from among ratepayers qualified to be guardians therein, or partly from one and partly from the other.

Nominated managers.

XI. Nominated managers shall be from time to time nominated by the Poor Law Board from among justices of the peace

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Sect. 10. Note.

By the order of May 15th, 1867, each board of guardians of the unions and separate parishes in the metropolitan asylum district are to elect on one of the last two ordinary meetings before March 25th, in every third year commencing with 1868, the prescribed number of duly qualified persons to serve as managers for the ensuing term of three years.

The "qualification" mentioned in this section is explained by the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 6, to be the qualification which may be prescribed by the Local Government Board under sect. 12 of this Act. That qualification is fixed by order of May 15th, 1867, at being rated at not less than 40*l*. The qualification for being a guardian is now fixed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 20, and it is doubtful whether the qualification fixed by order of the Local Government Board, or that fixed by the Local Government Act, 1894, is necessary for an elective manager.

Sect. 11. Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 9, so much of this section "as requires persons, other than

for any county or place resident in the district, or from among ratepayers *resident in the district* and assessed to the poor rate therein on an annual rateable value of not less than forty pounds, or partly from one and partly from the other. Sect. 11.

XII. The Poor Law Board shall from time to time by order prescribe the total number of the managers, and the proportion of the elective and nominated managers (but so that the prescribed number of the nominated managers do not ever exceed one-third of the prescribed number of the elective managers), the number of elective managers to be elected for each union or parish in the district, the qualifications of the managers, their tenure of office, the mode and times of election, and the quorum for their meetings. Number, qualifications, &c. of managers.

XIII. Any act or proceeding of the managers shall not be invalid by reason only of any vacancy in their body, or by reason only of any failure to elect or nominate or any defect or irregularity in or about the election or nomination of any person to be manager, or by reason only of the want of qualification or disqualification of any person acting as manager; and the managers shall be deemed lawfully constituted, and shall act, notwithstanding any such vacancy, failure, defect, irregularity, want of qualification, or disqualification. Validity of acts of managers notwithstanding vacancies, &c.

XIV. The provisions of the Poor Law Acts imposing penalties on guardians and their officers if concerned for their own profit Prohibition against managers or officers

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justices of the peace, nominated by the Poor Law Board as managers or guardians to be resident within the district, union or parish respectively for which they may be nominated," is repealed. Sect. 11. Note.

The number of nominated managers is now eighteen (Order September 3rd, 1886); of elective managers fifty-five (Order November 15th, 1892). Sect. 12. Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 9, all the provisions contained in the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57) in respect of the *election*, qualification, resignation, and the acts of guardians of a union, and in respect of the supply of vacancies in the board of guardians, shall apply to the members of the district boards or board formed or to be formed under the authority of the Metropolitan Poor Act, 1867, whether nominated or elective. The provisions in 5 & 6 Vict. c. 57, s. 8, as to the determination of disputes, as to election, &c., of guardians, and of sect. 11 as to the powers of the Local Government Board to order a new election on the death, resignation, or disqualification of a guardian are, however, now repealed by the Local Government Act, 1894. Sect. 13. Note.

These provisions will be found in the Poor Relief Act, 1815 (55 Geo. 3, c. 137), s. 6; and the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 51, 77. Sect. 14. Note.

Sect. 14.

being concerned in contracts.

in providing or in any contract for the supplying of anything for the use of workhouses or otherwise for the support or maintenance of the poor, and all remedies for recovery of such penalties, shall extend and apply to the managers and their officers.

Buildings for asylums.

XV. The Poor Law Board may from time to time by order direct the managers to purchase or hire, or to build, and (in either case) to fit up a building or buildings for the asylum, of such nature and size, and according to such plan, and in such manner, as the Poor Law Board think fit, and the managers shall carry such directions into execution.

As to the purchase or hiring of lands, &c. by managers.

XVI. The managers shall have for the purposes of the asylum the like powers as are for the time being vested in guardians of unions or parishes in the metropolis relative to the purchase or hiring of lands or buildings; but the consent of any ratepayers or owners of property in a union or parish shall not be necessary with respect to any sale, lease, or other disposition

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Sect. 15.

Note.

By the Metropolitan Poor Act, 1871 (34 & 35 Vict. c. 15), the provisions of this section are made applicable to the procuring of any ship, hut, tent or other temporary erection.

Sect. 16.

Note.

For the powers of guardians relative to the purchase or hiring of lands or buildings, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 21, 23; the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69); the Union and Parish Property Act, 1837 (7 Will. 4 and 1 Vict. c. 50); and the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 13.

By the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 86, "any authority or body of persons having the management and control of any hospital, infirmary, asylum, or workhouse may let the same or any part thereof to the metropolitan asylum managers, and enter into and carry into effect contracts with those managers for the reception, treatment, and maintenance therein of persons suffering from cholera or choleraic diarrhœa within the district of the managers: Provided that the power conferred by this section shall not, without the consent of the Local Government Board, be exercised with respect to any asylum under the Metropolitan Poor Act, 1867, or any workhouse."

By the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2, "the power to provide land and buildings under the Metropolitan Poor Act, 1867, is hereby declared to include power to provide any land or buildings which may, in the opinion of the Local Government Board, be required for the purposes of that Act, and the provisions of sect. 2 of the Poor Law Act, 1889, with respect to loans by guardians of unions as amended by this Act, shall apply, for the purpose of borrowing under the Metropolitan Poor Act, 1867, instead of sect. 17 of the last-mentioned Act, but with the substitution of 'one-tenth of the rateable value of the district' for 'one-fourth' of the rateable value of the union."

of any workhouse, building, or land by guardians or overseers to the managers. Sect. 16.

[Sect. 17. *Power to borrow money for purposes herein named:* Repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29). See note to sect. 16, *supra*.]

Adaptation of existing workhouses for asylums.

XVIII. The Poor Law Board may by order direct that any building for the time being in use as a workhouse be, with such alterations as the Poor Law Board think fit, used for the asylum, and thenceforth that building shall be for the common use of the district accordingly; and an annual sum in the nature of rent or other compensation, of such amount as the Poor Law Board from time to time direct, shall be paid to the guardians of the union or parish to which such building belongs, as long as the same continues to be so used.

Rent for workhouses so used.

Reimbursement to managers of expenditure on workhouse, in case of relinquishment of use thereof.

XIX. If in any such case the managers expend any money in the improvement or enlargement of the building, or the providing of substantial fittings therein, and afterwards relinquish the use thereof, the Poor Law Board may, if they think fit, make an adjustment in respect of that expenditure between the owners of the building and the managers, and direct such amount as they think equitable to be reimbursed to the managers by the owners of the building, to be paid at once, or by instalments, as the Poor Law Board direct.

Furniture, &c. for asylum.

XX. The managers shall from time to time provide for the asylum necessary fixtures, furniture, and conveniences, and such as the Poor Law Board from time to time by order direct.

Mode of admission into asylum.

XXI. The mode of admission of persons into the asylum shall be such as the Poor Law Board from time to time by order direct.

Powers and duties of managers in respect of inmates.

XXII. The managers shall have the like powers as guardians for the relief, maintenance, and management of the inmates of the asylum, and shall from time to time provide such

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Orders have been made under this and subsequent sections with regard to admission of persons into fever and small-pox asylums, and general management of such asylums, dated February 10th, 1875, April 6th, 1876, and July 7th, 1887; and, with regard to asylums for imbeciles, dated February 10th, 1875, see Macmorran & Lushington's Poor Law Orders, pp. 872 *et seq.* Sect. 21. Note.

The maintenance of in-door poor is made a charge upon the metropolitan common poor fund by the Metropolitan Poor Amendment Act, 1870 (33 & 34 Vict. c. 18). Sect. 22. Note.

As to the powers of managers in respect of patients not being

Sect. 22.

medicines, appliances, and requisites for the medical and surgical care and treatment of the inmates, and cause the same to be furnished and used according to such rules, as the Poor Law Board from time to time by order direct.

Application of parts of 7 & 8 Vict. c. 101, as herein named.

XXIII. The following provisions of the Poor Law Amendment Act, 1844, shall extend to the asylum, as if it were an asylum under that Act or a workhouse, and as if the managers were a district board under that Act, that is to say,—

So much of section forty-three as relates to rules of the Poor Law Board for government of the asylum or its inmates, and to religious assistance and instruction:

Sections fifty, fifty-four, fifty-seven, and fifty-nine.

Chargeability, burial, &c. of inmates.

Registration of births and deaths.

XXIV. With reference to chargeability, burial, and other incidents, the asylum shall in relation to each inmate thereof be deemed to be in the union or parish from which such inmate is sent; but births and deaths in the asylum shall be registered by the registrar in whose district the asylum is situate.

Appointment, &c. of paid officers.

XXV. The managers shall have the like powers as guardians for the appointment, control, and payment of paid officers

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Sect. 22. Note.

paupers, see the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 42.

Provision for the admission of non-pauper patients to asylums, &c., is made by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 80.

Sect. 23. Note.

The applied sections relate to (sect. 50) visitation and inspection of asylums; (sect. 54) liabilities of persons relieved in asylums; (sect. 57) committal of offenders in workhouses to gaol of the place to which the offenders belong; (sect. 59) payment of costs of certain civil and criminal proceedings out of poor rates.

Sect. 24. Note.

As to burial of paupers, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 31; *Ib.*, 1849 (12 & 13 Vict. c. 103), ss. 16, 17; *Ib.*, 1850 (13 & 14 Vict. c. 101), s. 2; Poor (Burials) Act, 1855 (18 & 19 Vict. c. 79); Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), ss. 1, 10; Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 21.

Sect. 25. Note.

As to appointment, &c., of officers, see Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 46. By sect. 80, *post*, the Local Government Board may appoint officers in default of appointment by the managers or dispensary committee.

As to superannuation of officers, it is now enacted by sect. 14 of the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50), that the provisions of that Act shall apply to the managers of the metropolitan asylums district, and to their officers and

of the asylum, and the grant of superannuation allowances to them. Sect. 25.

The duties, number, and salaries of the paid officers, and the securities to be given by them, shall be such as the Poor Law Board may from time to time approve, or by order direct.

XXVI. Legal and reasonable orders of the managers shall be obeyed, and obedience thereto shall be enforced, in like manner, and by and under like remedies and penalties, as legal and reasonable orders of guardians. Enforcement of orders of managers.

XXVII. The managers may from time to time, subject and according to such regulations as the Poor Law Board from time to time by order prescribe, appoint committees of members of their body, and delegate to them any of the powers of the managers. Committees of managers.

XXVIII. The managers shall, in the exercise and discharge of all their powers and duties, be subject to orders of the Poor Law Board, in like manner as guardians are under the Poor Law Acts. Managers to be subject to orders of Poor Law Board.

XXIX. Where the asylum is provided for reception and relief of the sick or insane, it may be used . . . for the Use of asylums for training of nurses.

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servants in like manner as nearly as may be as they apply to guardians and to their officers and servants; and the contributions of the officers and servants of such managers shall be carried to and form part of the fund applicable to the general expenses of such managers, and the superannuation allowances and gratuities shall be paid out of the said fund. Sect. 25. Note.

For enforcing orders of guardians, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 95, 99. Sect. 26. Note.

A general order, November 26th, 1894, addressed to three asylum boards, enables the managers of those boards to appoint visiting committees of women whether members of the asylum board or not. Sect. 27. Note.

See Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 15, 21, 42, and 52. Sect. 28. Note.

The words omitted, which provided for the use of asylums for purposes of medical instruction, were repealed by the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 20. Sect. 29. Note.

In order to give effect to the above provision as to nurses, orders have been issued by the Local Government Board, of which the order dated December 20th, 1873, amended by an order dated March 17th, 1874, addressed to the board of management of the Poplar and Stepney Sick Asylum District is a specimen. (See Macmorran & Lushington's Poor Law Orders, p. 927.)

Sect. 29.

training of nurses, in such cases and manner and subject to such regulations as the Poor Law Board from time to time by order direct.

Representative of Commissioners in Lunacy may attend meetings of managers of asylums.

XXX. Where the asylum is provided for reception and relief of the insane, the Commissioners in Lunacy may, if they think fit, depute one of their body or appoint from time to time a special commissioner, and the person so deputed or appointed shall be entitled to attend meetings of the managers, and to take part in their proceedings, but not to vote; . . .

Expenses of providing asylum, rent, furniture, &c. to be defrayed by contributions from unions, &c. in district.

XXXI. Expenses incurred by the managers in or about the purchasing, hiring, building, repairing, and fitting up of buildings for the asylum, and any sum in the nature of rent or other compensation payable by the managers to guardians in respect of the use for the asylum of a building previously used as a workhouse, and expenses incurred by the managers in or about the providing of fixtures, furniture, conveniences, medicines, medical and surgical appliances, and other necessaries required for keeping the asylum in proper order for daily use, and the salaries and maintenance of the officers thereof, shall be defrayed by contributions from the unions and parishes forming the district.

Charges for maintenance, &c. of inmates.

XXXII. Expenses incurred by the managers in or about the food, clothing, maintenance, care, treatment, and relief, or for the burials, of inmates of the asylum shall be separately charged to the respective unions or parishes from which the inmates of the asylum are sent.

Audit of accounts.

XXXIII. The Poor Law Board shall appoint some person to be the auditor of the district, who shall audit the accounts of

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Sect. 30.

Note.

The words omitted at the end of the section are repealed by the Lunacy Act, 1890 (53 Vict. c. 5), s. 342.

Sect. 31.

Note.

As to the basis and recovery of contributions from unions, &c., see sects. 55—58, *post*. As to repayment of expenses from the metropolitan common poor fund, see sect. 69, *post*.

Certain expenses of the asylum managers incurred under the Public Health (London) Act, 1891, are to be defrayed in the same manner as expenses are to be defrayed under this section (54 & 55 Vict. c. 76, s. 104 (2)).

Sect. 32.

Note.

As to repayment of expenses from the metropolitan common poor fund, see sect. 69, *post*.

Sect. 33.

Note.

See the District Auditors Act, 1879 (42 & 43 Vict. c. 6), for appointment of auditors. As to the details of auditing the accounts of guardians, see the Gen. Ord. for Accounts (Unions), January 14th, 1867, art. 38, *et seq.* (Macmorran & Lushington's Poor Law Orders, pp. 430 *et seq.*).

Sect. 33.

the managers and of their officers; and those accounts shall accordingly be prepared for and submitted to the auditor at such times and in such manner as the accounts of guardians of unions are by the Poor Law Acts required to be prepared and submitted.

Powers of auditor.

Recovery of sums disallowed, &c.

Appeal.

XXXIV. The auditor shall have the like powers of allowing and disallowing accounts, and of making surcharges therein, as auditors appointed under the Poor Law Acts have for the time being; and sums disallowed, reduced, or surcharged in the accounts submitted to the auditor shall be recoverable in like manner as under the Poor Law Acts; and there shall be the like appeal to the Court of Queen's Bench or to the Poor Law Board against an allowance, disallowance, or surcharge made by the auditor as in case of the audit of union or parish accounts.

Delivery of abstracts of accounts to boards of guardians.

XXXV. Within one month after each audit the managers shall deliver, by post or otherwise, to each board of guardians in the district a printed abstract (in a form from time to time prescribed by the Poor Law Board) of the accounts as audited.

[Sect. 36. *Remuneration of auditor.* Sect. 37. *Removal and new appointment of auditor:* These sections are repealed by the District Auditors Act, 1879 (42 & 43 Vict. c. 6), s. 11.]

Medical Out-door Relief.

Guardians, on order of Poor Law Board, to provide

XXXVIII. The Poor Law Board may from time to time, by order, direct the guardians of a union or parish in the metropolis to provide a dispensary or dispensaries for such

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Sect. 34.

Note.

As to the auditor's power to allow, disallow and surcharge, see Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32. As to recovery of sums certified by the auditor to be due, see *ib.*, and Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 9; and Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 9. As to appeal to the High Court by *certiorari*, see 7 & 8 Vict. c. 101, s. 35; and as to appeal to the Local Government Board, see 11 & 12 Vict. c. 91, s. 4, and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 38.

Sect. 38.

Note.

For the steps to be taken by the Local Government Board on default of the guardians in complying with an order under this section, see the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 14.

For borrowing powers of guardians, see now the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

Sect. 38.

buildings for dispensaries, to fit up parts of workhouses as dispensaries.

Power to borrow.

union or parish, and to purchase or hire, or to build, and (in either case) to fit up and furnish a building or buildings for that purpose, of such nature and size, and according to such plan, and in such manner, as the Poor Law Board think fit, or to set apart, adapt, fit up, and furnish for that purpose such part of the workhouse of the union or parish, according to such plans, and in such manner, as the Poor Law Board think fit, and the guardians shall act accordingly; and where the Poor Law Board by order so direct, the guardians may borrow the amount requisite in that behalf, in like manner, and subject to the like conditions as in the case of the building of a workhouse.

Dispensary committee.

XXXIX. There shall be a committee of management for the dispensary or dispensaries in each union or parish, to be called the dispensary committee for the union or parish (and in this Act the term "the dispensary committee" means, in relation to each union or parish, the dispensary committee for the same for the time being).

Election of committee.

XL. The dispensary committee shall be elected by the guardians of the union or parish from among themselves, or from among ratepayers of the union or parish assessed to the poor rate on an annual rateable value of not less than forty pounds, or partly from one and partly from the other.

Number, &c. of committee.

XLI. The Poor Law Board shall from time to time prescribe with respect to each committee the number and tenure of office of the members, the mode and time of election, and the quorum for their meetings.

Places to be provided for seeing sick poor, &c.

XLII. The guardians of each union or parish providing a dispensary shall also provide, according to the directions of the Poor Law Board, proper places where the medical officers of

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Sect. 39.

Note.

By the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 12, it is not necessary that such a committee be appointed unless the guardians apply to the Local Government Board to issue an order for that purpose, and an order is issued accordingly.

Sect. 41.

Note.

An Order, April 22nd, 1871, was issued dealing with the matters in this section, and the duties of the committee and its officers, and is set out with other orders amending the same, in Archbold's Poor Law, 15th ed., p. 407.

Sect. 42.

Note.

By the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 13, where a dispensary is provided the guardians may be required to provide a place for the attendance of the medical officer on the sick poor.

the union or parish may see such of the sick poor as attend there for advice, and where meetings of the dispensary committee may be held. Sect. 42.

XLIII. The dispensary committee shall from time to time appoint and shall at all times keep appointed proper persons to be dispensers of medicine at the dispensaries for the union or parish, and may from time to time appoint such other officers and such servants for the purposes of those dispensaries as they think fit. Appointment of dispensers, &c.

The duties, qualifications, number, and salaries of the dispensers, officers, and servants shall be such as the Poor Law Board may from time to time approve, or by order direct.

XLIV. The guardians of each union or parish providing a dispensary shall from time to time, on the requisition of the dispensary committee, provide proper medicines and appliances and requisites for the care and surgical treatment of the sick poor of the union or parish relieved out of the workhouse, and the same shall be dispensed and furnished to such of the poor entitled to relief as require the same, on the prescription or written direction of the district medical officer, subject to such regulations as the Poor Law Board from time to time by order direct. Providing and dispensing of medicines, &c.

XLV. The district medical officers for a union or parish shall be from time to time appointed by the dispensary committee, subject to the rules and orders of the Poor Law Board respecting appointment and removal of officers under the Poor Law Acts; but the district medical officers in office at the time of the dispensary committee entering on their duties shall continue in office as if this Act had not been passed, subject nevertheless to such modifications of arrangements respecting their duties and remuneration made with them before the passing of this Act as the Poor Law Board think fit. Appointment of district medical officers.

Sect. 43.

Note.

By an Order (addressed to thirty-nine unions and parishes), June 14th, 1895, the qualification for a dispenser is as follows: "No person shall be qualified to be appointed a dispenser unless he shall be a licentiate of the Society of Apothecaries in London, or shall hold a certificate of that society as to his qualification to act as an assistant in compounding and dispensing medicines, or shall be a compounder of medicines duly qualified in accordance with the regulations for the Army Medical Staff Corps, or shall have been duly registered under the Pharmacy Act, 1868, or shall have been duly registered under the Pharmacy Act (Ireland), 1875, and the Pharmacy Act (Ireland), 1875, Amendment Act, 1890, as qualified to compound medical prescriptions."

The duties of the dispenser are prescribed by art. 13 of the Order of April 22nd, 1871 (see note to sect. 41).

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Power of Poor Law Board to vary districts, salaries, and contracts with district medical officers.

XLVI. For giving effect to the provisions of this Act relating to medical relief out of the workhouse, the Poor Law Board may from time to time vary as they think fit medical districts, salaries, and contracts with district medical officers, existing at the passing of this Act or at any time thereafter.

District and Separate Schools.

Certain provisions as to charge of expenses of buildings, &c. as in 7 & 8 Vict. c. 101, s. 47, repealed as to the metropolis.

XLVII. So much of section forty-seven of the Poor Law Amendment Act, 1844, . . . as provides for payment by unions as therein mentioned of expenses incurred by any district board in the purchase or hire of any land or buildings for a school, or in erecting, repairing, adding to, or fitting up any building, and the salaries of the officers and servants of the establishment, and other common charges of the school, shall, as far as those provisions relate to a district in the metropolis, be repealed. . . .

Expenses for buildings and salaries of officers of district schools.

7 & 8 Vict. c. 101.

XLVIII. Expenses incurred by a district board constituted under the Poor Law Amendment Act, 1844, for the maintenance of a district school for a district in the metropolis in the purchase or hire of land or buildings for the school, and the salaries of officers, and all other common charges of such school, shall be defrayed by contributions from the unions and parishes forming the district, as in this Act provided.

Addition of nominated members to district boards.

XLIX. The Poor Law Board may from time to time nominate to be members of such a district board such persons as they think fit from among justices of the peace for any county or place resident in the district of the school, or from among ratepayers resident in that district, and assessed to the poor rate therein on an annual rateable value of not less than forty pounds, or partly from one and partly from the other, but so that the number of members so nominated do not ever exceed one-third of the full number of the elected members of the board.

Workhouses for Classes of Poor.

Poor Law Board may order the

L. Where, in the opinion of the Poor Law Board, the workhouse of a union or parish in the metropolis is adapted only for

Sect. 48.

As to these contributions, see sects. 55—58, *post.*

Note.

By an Order, July 22nd, 1889, no children are to be admitted into the district schools of the metropolis who are under three years of age, or are suffering from affections of the scalp, skin, or eyes; but separate accommodation may be provided for children suffering from such affections.

Sect. 50.

Note.

By the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 17, provision is made for the guardians providing in their workhouses for the maintenance of particular classes of poor, and receiving therein poor of the same class from other unions and parishes.

Sect. 50.

reception in workhouses adapted only for poor of particular classes of poor of such classes belonging to other unions or parishes.

the reception of poor persons of a particular class or particular classes, but is capable of accommodating poor persons of that class or those classes from any other union or parish within the metropolis, the Poor Law Board may by order direct the guardians of the union or parish to which the workhouse belongs to receive, lodge, and maintain therein poor persons of that class or those classes, or any of them, and the guardians shall receive, lodge, and maintain such poor persons accordingly, on terms to be agreed on, with the approval of the Poor Law Board, by the respective boards of guardians of the unions or parishes concerned, or, in default of such agreement, to be prescribed by the Poor Law Board by order; and in every such case the following provisions shall have effect:

(1) Every poor person so received into the workhouse shall, while therein, be treated in all respects in like manner, and be subject to the same or the like regulations and liabilities, as the other poor persons therein, and shall be chargeable in the first instance to the union or to the parish in the workhouse whereof he is received:

(2) The abiding of any such poor person in such workhouse shall in all other respects be attended with the same legal consequences as if the workhouse were situate within the union or parish from which he is sent:

(3) Every guardian of the union or parish from which such poor person is sent may at all reasonable times enter the workhouse and inspect any part thereof.

Lands.

Provisions of 5 & 6 Will. 4, c. 69, &c. as to acquisition of lands, &c. to apply to lands, &c. required for purposes of this Act.

LI. The provisions of the Union and Parish Property Act, 1835, relative to the acquisition of sites or buildings for workhouses, and of all Acts extending or amending the same, shall apply to lands and buildings required to be purchased, hired, or otherwise acquired for any of the purposes of this Act, and shall have effect as if managers under this Act were guardians, and as if an asylum or dispensary were a workhouse.

8 & 9 Vict. c. 18, and 23 & 24 Vict. c. 106, incorporated.

LII. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860 (in this Act referred to as the Lands Clauses Acts) are hereby incorporated with this Act; and for the purposes of this Act the term the promoters of the undertaking used in those Acts shall mean managers or guardians desirous of purchasing lands for purposes of this Act; and in those Acts and this Act the

Sect. 52. Note.

By the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 35, the term "promoters of the undertaking" in this section shall be deemed to have included managers and guardians desirous of purchasing lands for any of the purposes of the Poor Law Acts as therein defined.

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term lands shall include any estate, term, easement, right, or interest in, over, or affecting lands.

Order of Poor Law Board required to authorize compulsory purchase.

LIII. So much of the Lands Clauses Acts as relates to the purchase of lands otherwise than by agreement shall not be put in force except for the purchase of lands for the purpose of enlarging a workhouse, hospital, or school existing at the passing of this Act, and then not without a previous order of the Poor Law Board directing such purchase.

Notice by advertisement of intention to apply for order authorizing compulsory purchase.

LIV. Before the Poor Law Board make any such order the managers or guardians applying to them for the same shall publish once at least in each of four consecutive weeks in a daily morning newspaper published in the metropolis an advertisement stating the object for which the lands are proposed to be taken, and the quantity of lands required, and the place where a plan of the lands is open for inspection at reasonable hours, and shall four weeks before the application to the Poor Law Board serve notices on the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands, stating the particulars thereof, and that the managers or guardians are willing to treat for purchase thereof.

Contributions of Unions and Parishes.

Basis of contributions by unions and parishes.

LV. Sums to be contributed under this Act by unions and parishes shall be assessed on and contributed by them respectively in proportion to the annual rateable value of the property therein comprised, to be determined according to the valuation lists, or, where there are none, according to the latest poor rate for the time being for the union or parish, or on such other basis as the Poor Law Board from time to time direct.

Calls for contributions by managers and district boards.

7 & 8 Vict. c. 101.

LVI. The managers of an asylum under this Act, and the district board constituted under the Poor Law Amendment Act, 1844, for the maintenance of a district school, shall from time to time call on the guardians of the unions and parishes forming the district for such contributions as the managers or district board consider requisite for the purposes of the asylum or school.

Notice of call for contribution to be given to clerks of guardians.

LVII. Notice in writing of the amount of every such contribution, purporting to be signed by the clerk or other officer of the managers or district board (in a form from time to time prescribed by the Poor Law Board by order), shall fourteen days at least before such contribution becomes due be delivered to the clerk or acting clerk of the guardians of each union and

Sect. 55.

Note.

See the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 4, for definition of "rateable value"; and sect. 45 for conclusiveness of valuation list for the purposes of this Act.

parish liable to the contribution, either by post in a letter addressed to him at the office of the union or parish, or otherwise. Sect. 57.

LVIII. If the contribution is not duly paid, the managers or district board shall (in addition to any other remedy which any person has for the time being against guardians) have the like remedy for recovery of the contribution, or of so much thereof as is not paid, from the overseers or other officers authorized to levy poor rates in the several parishes (whether comprised in a union or not) in the district, as guardians have for the time being for recovery from overseers of contributions of parishes; and if the overseers of any parish in a union pay any money to the managers or district board on account of such contribution, they shall be entitled to credit for such payment in the accounts of the union with their parish. Remedies for recovery of contributions.

Medical In-door Relief.

LIX. In order to facilitate provision for the appointment, where requisite, of resident workhouse medical officers, and for better classification and management of the sick poor in a separate hospital or building, or in an infirmary kept distinct from the rest of the workhouse, the Poor Law Board may, by order, determine, or from time to time vary as they think fit, any contract with any medical or other workhouse officer existing at the passing of this Act, and direct the guardians to pay to a medical or other officer affected thereby such compensation by way of increased salary, or of an annuity, or of a gross sum, or otherwise, as the Poor Law Board think fit. Power to determine or vary existing contracts with workhouse medical officers.

[Sect. 60. *Repeal of* 27 & 28 *Vict. c.* 116, *ss.* 1, 2: Repealed by the S. L. R. Act, 1875.]

Metropolitan Common Poor Fund.

LXI. There shall be a fund, called the metropolitan common poor fund, raised according to the provisions of this Act by Establishment of metropolitan common poor fund.

For the enforcement of contribution orders by guardians against overseers, see the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 63; and the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 7. Sect. 58. Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), the powers conferred upon the Local Government Board by this section, to determine or vary the contracts with any medical or other workhouse officers existing at the passing of this Act, may be exercised by the Local Government Board for the purpose of improving the classification of all classes of paupers in addition to the purposes in the said section specified, and with reference to the contract with or the appointment of any officer appointed by a board of guardians irrespective of the date of the appointment or contract. Sect. 59. Note.

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contributions from the several unions, parishes, and places in the metropolis (in this Act referred to as the common poor fund).

Appointment of receiver of common fund.

LXII. There shall be a receiver of the common poor fund (in this Act referred to as the receiver), who shall be from time to time appointed by and shall be removable by the Poor Law Board, and shall receive such salary and give such security (if any) as the Poor Law Board direct.

Receiver to open account at Bank of England.

LXIII. The receiver shall open an account with the Bank of England, intituled "The Account of the Receiver of the Metropolitan Common Poor Fund" for the time being.

Assessment of contributions to common fund.

LXIV. The Poor Law Board shall from time to time assess on the several unions and parishes in the metropolis the amounts of their respective contributions to the common poor fund, in proportion to the annual rateable value of the property therein comprised, to be determined according to the valuation lists, or, where there are none, according to the latest poor rate for the time being for the union or parish, or on such other basis as the Poor Law Board from time to time direct.

Contributions of unions and parishes to common fund to be raised by guardians out of poor rates.

LXV. The Poor Law Board shall from time to time issue to the guardians of each union or parish a precept under the seal of the board requiring them to pay the amount of their contribution therein specified, in the manner and within the time therein prescribed, and the guardians shall accordingly raise the amount of their contribution out of the poor rates of the union or parish, and shall pay the same into the Bank of England, to the credit of the account of the receiver; and no such precept shall be liable to be removed into any court of law by *certiorari* or otherwise, nor shall any order of the guardians, or any rate made after the passing of this Act, be liable to question in any such court on the ground of its having been made wholly or partly in furtherance of any such precept: Provided always, that the guardians shall be entitled to have credit in part payment of their contribution for the amount which may be repayable to them out of the common poor fund, under the precept of the Poor Law Board, as herein-after mentioned, in respect of expenditure during the preceding half-year.

Precepts for contributions to be

LXVI. In order to obtain payment of the amount of the contribution to the common poor fund payable in respect of any

Sect. 64.

Note.

For the conclusiveness of the valuation list, see the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 45.

Sect. 66.

Note.

For the assessment and collection of the contributions from the Temple, Lincoln's Inn, &c., see the Extra-parochial Places Act,

Sect. 66.

place where there is no poor rate, the Poor Law Board shall from time to time issue to the masters of the bench, treasurer, governors, or other body or persons having the chief control or authority there, a precept requiring them or him to pay the amount of contribution therein specified, in the manner and within the time therein prescribed, and they or he shall pay the same accordingly.

addressed to local authorities in places where there is no poor rate.

LXVII. In every such place the masters of the bench, treasurer, governors, or other body or persons, may levy on the several persons occupying rateable property therein the amount of contribution so paid by them or him, by means of a rate in the nature of a poor rate, and for that purpose may employ and remunerate collectors, and shall have the like powers as are for the time being vested in overseers for the purposes of the making, assessing, levying, and collecting of poor rate.

Levying of rates by local authorities.

LXVIII. If any contribution to the common poor fund required by the Poor Law Board to be paid by any guardians, masters of the bench, treasurer, governors, or other body or persons, is not duly paid, the receiver shall (in addition to any other remedy which any person has for the time being against guardians) have the like remedy for recovery from them or him, in the receiver's own name, of the contribution, or of so much thereof as is not paid, as guardians have for the time being for recovery from overseers of contributions of parishes; and for that purpose the precept of the Poor Law Board requiring the contribution shall be conclusive evidence of the amount thereof, and of the liability thereto of the party sued.

Remedies for recovery of contributions.

LXIX. Expenses incurred for the following purposes shall be repaid out of the common poor fund, that is to say,—

(1) For the maintenance of lunatics in asylums, registered hospitals, and of insane poor in asylums under this Act, except such expenses as are chargeable on the county rate:

Expenses incurred for purposes herein mentioned to be repaid out of common fund.

1857 (20 Vict. c. 19), s. 3, and the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 59.

Sect. 66. Note.

By the Metropolitan Poor Amendment Act, 1870 (33 & 34 Vict. c. 18), s. 1, the provisions of sub-sects. (1) and (2) of this section are extended to the expenses of the maintenance of the in-door poor in the metropolis generally.

Sect. 69, sub-ss. (1), (2). Note.

By the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 80, expenses incurred by guardians in respect of the reception and maintenance in a hospital in a metropolitan district of non-pauper patients suffering from fever, small-pox or diphtheria are to be repaid out of the common fund.

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(2) For the maintenance of patients in any asylum specially provided under this Act for patients suffering from fever or small-pox:

(3) For all medicine and medical and surgical appliances supplied to the poor in receipt of relief by guardians under this Act or any of the Poor Law Acts:

(4) For the salaries of all officers employed by the guardians in and about the relief of the poor, by the managers of district schools under the Poor Law Amendment Act, 1844, and by the managers of asylums under this Act, and also the salaries of the dispensers and other persons employed in dispensaries under this Act, provided the appointments of the officers have been sanctioned by the Poor Law Board:

7 & 8 Vict. c. 101.

(5) For compensation to any medical officer of a workhouse affected by the determination or variation by the Poor Law Board of a contract respecting medical relief in the workhouse, or for compensation to any officer of a union or parish who may be deprived of his office by reason of the operation of this Act:

(6) For fees for registration of births and deaths:

(7) For fees for and other expenses of vaccination:

(8) For maintenance of pauper children in district, separate, certificated, and licensed schools.

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Sect. 69, sub-s. (3).

By the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 14, no allowance is to be made to the guardians under this sub-section if they refuse or neglect to provide a dispensary.

Note.

Sub-s. (4).

"Salaries of officers" include the cost of rations (33 & 34 Vict. c. 18, s. 2).

Sub-s. (5).

As to compensation, see sect. 59, *ante;* sect. 76, *post;* 32 & 33 Vict. c. 63, s. 18; and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 41.

Sub-s. (6).

See the Births and Deaths Registration Act, 1836 (6 & 7 Will. 4, c. 86), s. 29.

Sub-s. (7).

No expenses of vaccination are to be repaid under this sub-section, which have been incurred without the authority of the Local Government Board (32 & 33 Vict. c. 63, s. 15).

Sub-s. (8).

As to district schools, see sects. 47—49, *supra*, and the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 40; certificated schools, see the Poor Law (Certified Schools) Act, 1862 (25 & 26 Vict. c. 43); and licensed schools, see Industrial Schools Act, 1866 (29 & 30 Vict. c. 118).

By the Metropolitan Poor Act, 1898 (61 & 62 Vict. c. 45), an institution which would otherwise come within this sub-section is not to be excluded therefrom by reason only of the children being educated at a public elementary school or elsewhere outside the institution. But if the number of children maintained in any

Sect. 70.

Mode of repayment out of common fund.

LXX. After each half-yearly audit the auditors shall, within such time and in such manner as the Poor Law Board from time to time direct, certify to the Poor Law Board the amount actually expended by each union or parish in respect of expenses which are to be repaid out of the common poor fund; and the Poor Law Board shall, by precept under the seal of the board, direct the receiver to repay out of that fund to the guardians of the unions and parishes the several sums so expended; and the amount repaid shall be applied by them in aid of the fund chargeable with the relief of the poor.

Receiver's salary, &c.

LXXI. The salaries of the receiver and his assistants, and all expenses incurred by him in the execution of this Act, shall be paid out of the common poor fund.

Drawing on receiver's account.

LXXII. The account of the receiver at the Bank of England shall be drawn on in such manner and according to such regulations as the Poor Law Board from time to time by order direct.

Poor Relief under Local Acts.

Relief of poor in unions or parishes in the metropolis under local Acts to be administered by guardians elected under the Poor Law Acts.

LXXIII. The relief of the poor of every union or parish in the metropolis governed by a local Act shall, from and after a day to be stated in an order of the Poor Law Board in relation to each union or parish, be, notwithstanding anything in such local Act, administered by a board of guardians elected according to the Poor Law Acts, and in conformity with an order of the Poor Law Board.

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district or separate school exceeds the number certified by the Local Government Board as the maximum number to be maintained in that school, no repayment from the common fund is to be made in respect of the children so in excess.

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Note.

Sect. 70.

Note.

By the Metropolitan Poor Amendment Act, 1870 (33 & 34 Vict. c. 18), s. 3, the guardians must, within one month after each audit, deliver a copy of their financial statement to each vestry within the union or parish. By the London Government Act, 1899 (62 & 63 Vict. c. 14), ss. 4, 31, such statement must now be delivered to the borough council.

Sect. 72.

Note.

See sect. 63, *supra*.

Sect 73.

Note.

Guardians in the metropolis are now elected in conformity with an order of the Local Government Board, "Guardians (London) Election Order, 1898," dated January 21st, 1898, issued in pursuance of the provisions of the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 20 (5), 48.

Sect. 74.

Powers, &c. of new boards of guardians.

LXXIV. The guardians so constituted under this Act, notwithstanding anything in any local Act, shall have the same powers and authorities, and shall be subject to the same orders, regulations, and restrictions, as guardians elected under the Poor Law Acts.

Transfer of property from old to new boards of guardians.

LXXV. The workhouses, goods, effects, and real and personal property belonging to a union or parish governed by a local Act, and held or used for purposes of the relief of the poor or of the business of guardians, shall by virtue of this Act be transferred to and vested in and belong to the guardians of the union or parish when constituted under this Act, and shall be held and used for purposes of such relief and business, and upon such other trusts and for such other purposes as would have been applicable to the same if this Act had not passed;

Payment of debts of old boards.

and those guardians shall pay and discharge the debts and liabilities lawfully incurred in and about such relief, or otherwise due from the previous guardians of the union or parish, as the same ought to have been paid and discharged by the previous guardians if this Act had not been passed: Provided, that the Poor Law Board may, if they think fit, by order, extend the time of payment of any such debt for a period not exceeding six months from the date of the order.

Continuance of existing officers.

LXXVI. Officers and persons appointed or acting under any such local Act for any purpose of the relief of the poor, or otherwise in the service of the guardians, and superintendent registrars of births, deaths, and marriages, and registrars of births and deaths, and registrars of marriages, shall be entitled to continue in office after the constitution of the new board of guardians under this Act to the same extent as if this Act had not been passed; and their service before the constitution of that board shall be reckoned in the computation of any superannuation allowance to which they may become entitled:

Compensation to displaced officers.

Provided, that in case any officer of a union or parish shall be deprived of his office by reason of the operation of this Act, the Poor Law Board may award to him such compensation for the loss of his office and its emoluments, either by way of gross sum or by way of annuity, as to them shall seem reasonable.

Saving for rating powers of existing bodies.

LXXVII. Nothing in this Act shall deprive any body constituted under a local Act of any power thereby vested in them of making and levying poor rates; and in relation to guardians constituted under this Act every such body shall be

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Sect. 74.

Note.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 2, as amended by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 3, local Acts relating to the poor may be altered by provisional order of the Local Government Board, confirmed by Parliament.

deemed overseers within the Poor Law Acts, as far as regards liability to payment of contributions required by guardians for purposes of the relief of the poor in the union or parish. Sect. 77.

[Sect. 78. *Part of sects.* 64, 65 *of* 7 & 8 *Vict. c.* 101, *repealed:* Repealed by the S. L. R. Act, 1875.]

[Sect. 79. *Power of Poor Law Board to nominate additional guardians:* Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.]

Officers.

LXXX. In case at any time any managers of an asylum or dispensary committee under this Act, or any board of guardians of a union or parish in the metropolis, fail, for fourteen days after receipt of a requisition of the Poor Law Board in this behalf, to appoint (either originally or on a vacancy) any officer whom they are by law required or authorized to appoint, then at any time after the expiration of that period of fourteen days the Poor Law Board may, if they think fit, by order, appoint a fit person to be such officer; and the person so appointed shall have and perform all the same powers, rights, privileges, and duties as if the appointment had been duly made by the managers, committee, or guardians, as the case may be. Appointmen of officers on failure of managers, &c.

Borrowing.

LXXXI. Where the guardians of a union or parish in the metropolis require to borrow money for the purposes and under the authority of the Poor Law Acts, the principal sum borrowed may be any sum not exceeding one-half of the aggregate amount of the rates raised for the relief of the poor in that union or parish within three years ending on the twenty-fifth day of March next preceding the borrowing of the money, anything in the said Acts to the contrary notwithstanding. Extension of borrowing powers.

LXXXII. Nothing in this Act contained shall prevent any board of guardians or churchwardens and overseers from obtaining any order of removal or any order of maintenance in respect of any pauper by reason of the costs and expenses of such pauper being repaid out of the common fund. Provision for orders of removal and of maintenance.

For a similar provision outside London, see the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 7; and for appointment of vaccination officer on default by guardians, see the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 5. Sect. 80. Note.

This section is apparently repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2 (6), and replaced by sub-sect. (2) of that section. Sect. 81. Note.

VACCINATION ACT, 1867.

30 & 31 VICT. CHAP. 84.

An Act to consolidate and amend the Laws relating to Vaccination.* [12th August, 1867.]

[*Preamble.*]

[Sect. 1. *Repeal of* 3 & 4 *Vict. c.* 29; 4 & 5 *Vict. c.* 32; 16 & 17 *Vict. c.* 100; 21 & 22 *Vict. c.* 25, *s.* 7; 21 & 22 *Vict. c.* 97, *s.* 2; 24 & 25 *Vict. c.* 59: Repealed by the S. L. R. Act, 1893.]

Division of unions and parishes into vaccination districts.

II. The guardians of every union or parish where the same shall not have been divided into districts for the purpose of vaccination shall, unless such union or parish respectively shall be of so limited an area as not to require subdivision, in which case the same shall be treated as a vaccination district within the meaning hereof, forthwith divide the union or parish for which they act into districts for the performance of vaccination; and when the Poor Law Board shall by their order require any districts for the time being to be consolidated or otherwise altered, the guardians shall proceed to consolidate or alter the same, and they shall in every such case of division, consolidation, or alteration report their proposal to the Poor Law Board for their approval, which board shall approve or disapprove of the same as they see fit; and the guardians of every union or parish may, with like approval, from time to time as they shall find it requisite, alter the districts heretofore formed or hereafter to be formed for the purpose of vaccination.

Approval of schemes of division, and appointment of public vaccinator.

III. If the said board disapprove of the proposal the guardians shall forthwith proceed to prepare another, and submit the same to the said board for approval, and so on from time to time as shall be requisite until their proposal shall be approved, and when the said board shall have approved of the same the guardians shall enter into a contract with some duly registered medical practitioner for the performance of

* Throughout this Act for "Poor Law Board" and "Lords of Her Majesty's Council" now read "Local Government Board" (34 & 35 Vict. c. 70). The working of this Act is now subject to the Vaccination Order, 1898, issued by the Local Government Board, dated October 18th, 1898, which rescinds all previous orders.

Sect. 2. Note. The provisions of this section are extended by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 5.

Sect. 3. Note. The form of contract is now prescribed by the Vaccination Order of October 18th, 1898.

vaccination of all persons resident within each district; and every such medical practitioner shall be termed the public vaccinator of the district; and as and when the contracts now existing shall determine the guardians shall enter into others, with such modifications as the circumstances shall render necessary subject to the like approval of the Poor Law Board as aforesaid. Sect. 3.

IV. No person shall be appointed a public vaccinator, or act as deputy for a public vaccinator, who shall not possess the qualification heretofore prescribed by the lords of Her Majesty's Council, or such as shall be from time to time hereafter prescribed by them, except when such lords shall upon sufficient cause sanction any departure from their directions; and all such regulations as the said lords have heretofore made or shall hereafter make, which they are hereby authorized to make, to secure the efficient performance of vaccination or the provision and supply of vaccine lymph by the public vaccinator, and all such directions or regulations as the said lords acting under any Act for the prevention of diseases may issue in relation to small-pox, shall be duly observed by the several persons to whom they apply; and the said lords may from time to time cause such inquiries to be made relating to the observance of such regulations and to the execution of this Act as to them shall seem fit, and shall direct how any money hereafter to be provided by Parliament for or towards defraying the expenses of the national vaccine establishment, or otherwise providing for the supply of vaccine lymph, shall be applied. Qualification of public vaccinator and regulations for public vaccination.

V. On reports made to the *lords of Her Majesty's Council* with regard to the number and quality of the vaccinations performed in the several vaccination districts of England, or any of them, the *said lords* may from time to time, . . . and under regulations to be approved by the Treasury, authorize to be paid to any public vaccinators, in addition to the payments received by them from guardians or overseers, further payments not exceeding in any case the rate of one shilling for each child whom the vaccinator has successfully vaccinated during the time to which the award of the said *lords of the Council* relates. Allowances to public vaccinators.

Sect. 4. Note.

The regulation of the Privy Council as to the qualification of vaccinator was to the effect that he must possess the same qualifications as are required by the Poor Law Commissioners for a district medical officer (see Gen. Ord., December 10th, 1859), or produce a special certificate by some public vaccinator who had examined him, though this certificate might be dispensed with.

Sect. 5. Note.

The former provision in this section that the payments should be made "out of monies provided by Parliament" was repealed by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 24. They are now made by the various county councils under that section.

Sect. 6.

Contracts to provide for successful vaccination.

VI. Every such contract for vaccination shall provide for payment in respect only of the successful vaccination of persons, and so that the rate of payment for primary vaccinations shall be not less than the following; that is to say, for every such vaccination done at an appointed station situated at or within one mile from the residence of the vaccinator, or in the workhouse of the union or parish, not less than one shilling and sixpence; and for every such vaccination done at any station over one mile and under two miles distant from his residence, not less than two shillings; and for every such vaccination done at any station over two miles distant from his residence, not less than three shillings; such distance being measured according to the nearest public carriage road; but in respect of successful vaccinations performed elsewhere than at a station or in the workhouse as aforesaid, the payment shall be according to the terms specified in the contract as approved of by the Poor Law Board.

Conditions may be imposed in the contracts to secure due vaccination of persons.

Guardians to provide vaccination stations.

VII. The guardians shall, with the consent of the Poor Law Board, make stipulations and conditions in their contracts to secure the due vaccination of persons, the observance of the provisions of this Act with regard to the transmission of the certificate of successful vaccination, and the fulfilment of all other provisions of this Act on the part of the public vaccinator, [*and shall provide all stations at which the vaccination shall be appointed to be performed other than the surgery or residence of the public vaccinator.*]

Regulations for re-vaccination.

VIII. The provisions of the contracts entered into before this Act comes into operation shall not after the thirty-first day of December next apply to the cases of persons who having been previously successfully vaccinated shall be re-vaccinated, but if *the lords of Her Majesty's Council* shall have issued or shall hereafter issue regulations in respect of the re-vaccination of

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Sect. 6. Note.

This section is repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act, which will be for a period only of five years, unless further continued.

Sect. 7. Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

Future contracts must be in the form prescribed by the Vaccination Order, 1898.

As to transmission of certificates of successful vaccination, see sect. 21, *post*, as amended by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 7.

Sect. 8. Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

By sect. 9 of the Vaccination Act, 1871 (34 & 35 Vict. c. 98), a re-vaccinated person who does not attend to be inspected must himself pay the fee for re-vaccination.

persons who may apply to be re-vaccinated, which such lords are hereby authorized to do, the guardians shall pay in respect of every case of successful re-vaccination performed in conformity with such regulations under such contracts or under new contracts entered into after the date hereof a sum [*amounting to two-thirds of the fee payable upon each case of successful primary vaccination.*] Sect. 8.

IX. No contract for vaccination entered into under the provisions of this Act shall be valid until the same shall have been approved of by the Poor Law Board, and such board may, at their discretion, upon the application of the *lords of Her Majesty's Council* or otherwise, at any time after the same shall have been approved of by them, determine it either forthwith or at a future day. Approval of contracts for vaccination.

X. No payment in respect of vaccination shall be made out of the common fund of any union, or out of the poor rate of any parish, or out of any other public or parochial fund, where the Poor Law Board shall not have approved of a contract for the performance thereof, or after they shall have determined any such contract; and every payment made contrary hereto shall be disallowed by the auditor in the accounts of every board of guardians, or of the overseers, or of any officer who shall have made the same. No payment to be made out of the poor rate or any other parochial fund unless the Poor Law Board have approved of the contract.

XI. Where a district shall have been or shall be assigned to a vaccinator, he shall not be entitled to be paid a fee in respect of the vaccination or re-vaccination of any child or other person resident out of his district, except in case of a vacancy in the office of vaccinator in any adjoining district, or of the default of the vaccinator therein, of which default notice shall have been given to him in writing by the guardians, or when a relieving officer of his union or parish shall in writing refer any child to him for vaccination. No public vaccinator to be paid for vaccination out of his district, except in cases herein specified.

Sect. 9. Note.

The provisions of this section are extended to contracts for vaccination entered into under the provisions of any other Act by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 14.

As to approval of contracts, see now art. 5 of the Vaccination Order, 1898.

Sect. 10. Note.

As to disallowance by auditor, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 35, 36; the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 4; and the Local Authorities Expenses Act, 1887 (50 & 51 Vict. c. 72).

As to application of this section in the metropolis, see the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 15.

Sect. 12.

Provision for districts in particular places of scanty or scattered population.

XII. The guardians may with the consent of the Poor Law Board provide in districts where the population is scanty or much scattered, or where some peculiar circumstances may render it expedient for them to do so, for the attendance of the public vaccinator at the appointed places after intervals exceeding three months; and if by reason of such intervals the vaccination of any child cannot be performed within the respective periods herein prescribed, no parent, or other person who would otherwise be liable shall be liable to any penalty in respect of a neglect to procure the vaccination during any such period; but every such parent or other person shall be bound to procure such vaccination to be performed at the time and place so appointed before the commencement of the next interval, unless it be otherwise performed by a medical practitioner as herein provided, or unless the child shall be certified to be then in an unfit state for or insusceptible of vaccination.

Guardians to give notice of alteration in districts.

XIII. When the guardians make any alteration in a vaccination district, or otherwise in the local arrangements for vaccination, they shall give public notice of such alteration by printed papers to be affixed in the districts affected by such alteration for one month prior to the alteration taking effect.

[Sect. 14. *The registrar-general to supply forms:* Repealed by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 17, and provision made for the supply of forms by sects. 5, 8 of that Act.]

Registrar of births to deliver notice as to vaccination to parent or other person registering birth.

XV. The registrar of births shall, on or within seven days after the registration with him of the birth of any child not already vaccinated, give a notice, according to the form in the schedule hereto annexed marked A., or to the like effect, to the parent, or, in the event of the death, illness, absence, or inability of the parent, to the person having the custody of such child, if known to him, requiring such child to be duly vaccinated [*according to the provisions of this Act, and specifying the days, hours, and places where the public vaccinator of the vaccination district wherein such child resides, or the vaccinator of any station duly authorized by the lords of Her Majesty's*

Sect. 12. Note.

This section is repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

Sect. 15. Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

The forms to be used for the purposes of the Vaccination Acts, 1867 to 1898, and orders thereunder are now prescribed by the Vaccination Order, 1898. (See the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 15.)

On a prosecution for non-compliance with this Act, it is not necessary to prove receipt of the notice required by this section to be given. (See sect. 34, *post.*)

Council, will attend for the purpose of performing the operation,] to which notice forms according to those in the said schedule marked (B.), (C.), and (D.), and also the address of the registrar giving the notice, shall be attached in such form as the registrar-general shall deem most convenient. Sect. 15.

Obligation on parents or guardians to procure the vaccination of every child.

XVI. The parent of every child born in England shall [*within three months after the birth of such child,*] or where, by reason of the death, illness, absence, or inability of the parent, or other cause, any other person shall have the custody of such child, such person shall, [*within three months after receiving the custody of such child, take it or cause it to be taken to the public vaccinator of the vaccination district in which it shall be then resident, according to the provisions of this or any other Act, to be vaccinated, or shall within such period as aforesaid*] cause it to be vaccinated by some medical practitioner; [*and the public vaccinator to whom such child shall be so brought is hereby required, with all reasonable despatch, subject to the conditions hereafter mentioned to vaccinate such child.*]

Inspection of result of vaccination and re-vaccination, if first operation is unsuccessful.

XVII. [*Upon the same day in the following week when the operation shall have been performed by the public vaccinator such parent or other person, as the case may be, shall again take the child or cause it to be taken to him or to his deputy that he may inspect it, and ascertain the result of the operation, and, if he see fit, take from such child lymph for the performance of other vaccinations; and*] in the event of the vaccination being unsuccessful such parent or other person shall, [*if the vaccinator so direct,*] cause the child to be forthwith again vaccinated [*and inspected as on the previous occasion.*]

Provision for delay of vaccination in case of unfitness of child for

XVIII. If any public vaccinator or medical practitioner shall be of opinion that the child is not in a fit and proper state to be successfully vaccinated he shall forthwith deliver to the parent or other person having the custody of such child a certificate under his hand according to the form in the schedule

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Sect. 16. Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act. By sect. 1 (1) of that Act the period of three months mentioned in this section is extended to six months.

See definition of "parent" in the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 4.

Sect. 17. Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act. See sect. 1 (2) of that Act for the provisions requiring vaccinator to visit the home of the child for the purpose of vaccinating it.

Sect. 18. Note.

The certificate is now in the form B. prescribed in the Vaccination Order, 1898.

The person signing the certificate must be registered under the Medical Act, 1858 (21 & 22 Vict. c. 90). (See sect. 37 of that Act.)

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successful vaccination.

hereto annexed marked (B.), or to the like effect, that the child is then in a state unfit for successful vaccination, which certificate shall remain in force for two months, and shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for successful vaccination, when the child shall, with all reasonable despatch, be vaccinated, and the certificate of successful vaccination duly given if warranted by the result.

Provision for successive certificates of such unfitness.

XIX. At or before the end of each successive period the parent or such person as aforesaid shall take or cause the child to be taken to some public vaccinator or medical practitioner, who shall then examine the child, and give the certificate according to the said form B., so long as he deems requisite under the circumstances of the case.

Provision for insusceptibility of successful vaccination.

XX. If any such public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child [*brought to him for vaccination*] has already had the small-pox, he shall deliver to the parent or other person as aforesaid a certificate under his hand according to the form in the schedule hereunto annexed marked (C)., or to the like effect, and the parent or such person aforesaid shall thenceforth not be required to cause the child to be vaccinated.

Certificate of successful vaccination by public vaccinator.

XXI. Every public vaccinator who shall have performed the operation of vaccination upon any child, and have ascertained that the same has been successful, shall, within *twenty-one days after the performance of the operation*, transmit by post or otherwise a certificate according to form D. in the said schedule, or to the like effect, certifying that the said child has

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Sect. 19.

Note.

This section is repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

Sect. 20.

Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

The certificate is now in the form D. prescribed in the Vaccination Order, 1898.

As to transmission of these certificates, see the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 7.

Sect. 21.

Note.

The period of "twenty-one days after the performance of the operation" is altered by sect. 7 of the Vaccination Act, 1871 (34 & 35 Vict. c. 98), to "seven days after the examination of the child upon which such certificate is founded."

The certificate is now in the form E. prescribed by the Vaccination Order, 1898.

The certificate must now be transmitted to the vaccination officer, not to the registrar of births and deaths (Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 6).

been successfully vaccinated, to the *registrar of births and deaths in the district within which the birth was registered*, but if such district be not known to him, or if the birth of the child shall not have been registered, to the registrar within whose district the operation shall have been performed, and upon request shall deliver a duplicate thereof to the parent or other person as aforesaid. Sect. 21.

XXII. No fee or remuneration shall be charged by the public vaccinator to the parent or other person for any such certificate or duplicate certificate as aforesaid, nor for any vaccination done under his contract, nor shall he be entitled to payment under his contract for any vaccination in respect of which he shall have been paid by the parent or other person for whom or on whom it is performed; and if he should have received payment under his contract he shall not be entitled to recover payment for the vaccination from any other person. No fee to be charged to parent, &c. for certificate or duplicate, or for vaccination under contract.

XXIII. Where the vaccination shall be successfully performed by a medical practitioner not being a public vaccinator, the parent or other person as aforesaid causing the child to be vaccinated shall submit a certificate according to the said form marked D. to such medical practitioner, to be filled up and signed by him, and shall within twenty-one days after the performance of the operation transmit the same so signed, by post or otherwise, to the registrar of the district where the birth of such child was registered, or if such child shall not have been registered, or the district of the registration shall not be known to such parent or other person, to the registrar of the district in which the operation shall have been performed. Transmission to registrar of certificate of successful vaccination by a medical practitioner not being a public vaccinator.

XXIV. Every registrar shall keep a book in which he shall enter minutes of the notices of vaccination given by him as herein required, and also register the certificates transmitted to him as herein provided, and shall at all reasonable times allow searches to be made therein, and upon demand give a copy under his hand or under that of his deputy of any entry in the same, on payment of a fee of sixpence for each search and threepence for each copy; and every registrar shall receive a fee of one penny in respect of every child whose birth he shall have Registration of notices of vaccination.

So much of this section "as requires a parent to submit any certificate, or prescribes the time within which any certificate is to be transmitted" is repealed by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 17, and schedule; and the whole section is in effect repealed and replaced by sect. 7 of that Act. Sect. 23. Note.

So much of this section as fixed a fee for registering certificates is repealed by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), and other fees are substituted by sect. 8 of that Act. By sect. 7 of that Act certificates must now be sent to the vaccination officer and registered by him. Sect. 24. Note.

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registered, and in respect of whom he shall give the notice as aforesaid: . . . Provided that no fee shall be charged for any search made by a public vaccinator, or any officer of the guardians, authorized by them to make such search, or any inspector appointed by the Poor Law Board or the *lords of Her Majesty's Council.*

Fees of registrars to be paid by the boards of guardians.

XXV. The registrar shall make out an account of the fees to which he shall be entitled under this Act at the usual quarter days of the year, and submit the same to the guardians of the union or parish for which he acts, and they shall, after examining the same and comparing with the register of successful vaccinations kept by him and finding the account to be correct, forthwith pay the amount of the same out of the funds in their possession.

Vaccination declared not to be parochial relief so as to impose any disqualification.

XXVI. It is hereby declared, that the vaccination, or the surgical or medical assistance incident to the vaccination, of any person in a union or parish, heretofore or hereafter performed or rendered by a public vaccinator, shall not be considered to be parochial relief, alms, or charitable allowance to such person or his parent, and no such person or his parent shall by reason thereof be deprived of any right or privilege, or be subject to any disability or disqualification.

[Sect. 27. *Half-yearly proceedings by registrars and guardians:* Repealed by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 17, and other provisions substituted by sects. 5, 8 of that Act.]

Power to guardians to pay certain expenses in relation to vaccination out of their funds.

XXVIII. The guardians of any union or parish may pay out of their funds all reasonable expenses incurred by them in causing notices to be printed and circulated as to the provisions of this Act, and in and about inquiries and reports as to the state of small-pox or vaccination in their union or parish, and in taking measures to prevent the spread of small-pox and to promote vaccination upon any actual or expected outbreak of that disease therein, and may pay any officer appointed by them to prosecute persons charged with offences against this Act, or otherwise to enforce its provisions.

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Note.

The register of successful vaccinations is now kept by the vaccination officer (Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 6).

Charges incurred by guardians in respect of vaccination and registration fees are payable out of the common fund (Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1). As to metropolis, see Metropolitan Poor Act, 1867 (30 Vict. c. 6), s. 69 (7), and Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 15.

Sect. 28.

Note.

By the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 5, the guardians must appoint and pay one or more vaccination officers to prosecute offences against the Vaccination Acts, &c., and they may be compelled by *mandamus* to do so (*Reg.* v. *Leicester Guardians*, [1899] 2 Q. B. 632).

Sect. 29.

Penalty on parent, &c. neglecting to procure vaccination of child.

XXIX. Every parent or person having the custody of a child who shall neglect [*to take such child or*] to cause it [*to be taken*] to be vaccinated, or after vaccination to be inspected [*according to the provisions of this Act*,] and shall not render a reasonable excuse for his neglect, shall be guilty of an offence, and be liable to be proceeded against summarily, and upon conviction to pay a penalty not exceeding twenty shillings.

Sect. 29.

Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act. By sect. 4 of that Act, "No proceedings under sect. 31 of the Vaccination Act, 1867, shall be taken against any parent or person who has been convicted under sect. 29 of the said Act on account of the same child until it has reached four years of age."

Before the Vaccination Act, 1898, proceedings might be taken under this section by any person, but more properly by the vaccination officer, who did not require to receive any special instructions from the guardians for that purpose (see *Knight* v. *Halliwell*, 43 L. J. M. C. 113; 30 L. T. (N. S.) 359; 38 J. P. 470). If the child remained unvaccinated proceedings were then taken by the vaccination officer under sect. 31, upon the special directions of the guardians under art. 16 of the Gen. Ord. of October 31st, 1874, as two convictions could not be obtained against the same person under this section (see *Black* v. *Epping Union*, 49 J. P. 19).

Time for taking proceedings.

The appellant was convicted on an information, laid on July 12th, 1900, under the Vaccination Act, 1867, s. 29, charging him that, being the parent having the custody of a child born on December 30th, 1898, he did unlawfully neglect to cause the child to be vaccinated within six months after birth, not rendering a reasonable excuse for his neglect. On May 1st, 1899, the public vaccinator visited the appellant's house, pursuant to notice, and offered to vaccinate the child, and vaccination was refused. On July 7th, 1899, the vaccination officer served a notice, under the Vaccination Order, 1898, on the appellant, requiring him to have the child vaccinated within fourteen days. No certificate of postponement or successful vaccination was received in respect of the child. The appellant objected that the information was out of time, having been laid more than twelve months after the offence was committed. The justices disallowed the objection, on the ground that the offence was complete, and the time began to run, on July 21st, the date of the expiration of the notice served on the appellant by the vaccination officer. *Held* that the offence was complete, and the time began to run, six months after the birth of the child, and the information was out of time (*Langridge* v. *Hobbs*, [1901] 1 Q. B. 497).

"Sufficient excuse."

For the relief to "conscientious objectors," see sect. 2 of the Vaccination Act, 1898. Persons who have not obtained a certificate under that section may still render a "sufficient excuse" under this section. As to what may be a sufficient excuse: A parent stated that he thought vaccination would prove injurious to his child, as his family had a tendency to injury from vaccination. The justices held that such an excuse had no reference to the particular case, and refused to hear any arguments in support of it. *Held* that the justices were wrong, and ought to have heard the arguments and evidence, as the excuse was reasonable if proved (*Rutter* v. *Norton*, 57 J. P. 8).

District Council.

A district council have no sufficient interest to enable them to

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Penalty on vaccinator or parent neglecting to sign or transmit certificate, and on persons signing false certificates.

XXX. Every public vaccinator, parent, or person, as the case shall require, who shall neglect to transmit any certificate required of him by the provisions of this Act completely filled up and legibly written to the *registrar* within the time herein specified, and every public vaccinator who shall refuse to deliver the duplicate to the parent or other person, on request, and every medical practitioner who shall refuse to fill up and sign the certificate of successful vaccination when submitted to him as aforesaid, shall be liable to pay upon a summary conviction a penalty not exceeding twenty shillings; and every person who shall wilfully sign a false certificate or duplicate under this Act shall be guilty of a misdemeanour, and punishable accordingly.

Justices may make orders for vaccination of

XXXI. If any *registrar*, or any officer appointed by the guardians to enforce the provisions of this Act, shall give information in writing to a justice of the peace that he has reason to believe that any child under the age of fourteen years, being

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Note.

obtain a *mandamus* against the guardians of the union comprising their district, calling upon them to enforce the provisions of the Vaccination Acts by taking proceedings against persons in default (*Reg.* v. *Lewisham Union*, [1897] 1 Q. B. 498; 66 L. J. Q. B. 403; 76 L. T. 324; 45 W. R. 346; 61 J. P. 151).

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Note.

For "registrar" in this section now read "vaccination officer" (Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 7).

The reference to the medical practitioner refusing to sign a certificate submitted to him has relation to sect. 23, *ante*, which is in effect repealed, and is replaced by sect. 7 of the Vaccination Act, 1871.

By sect. 5 of the Vaccination Act, 1898 (61 & 62 Vict. c. 49), persons committed to prison on account of non-compliance with any order or non-payment of fines under the Vaccination Acts are to be treated as first class misdemeanants.

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Note.

The duty of prosecuting offenders is removed from the registrar and imposed on the vaccination officer by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 6. And see sect. 11 of that Act for the amendment of legal proceedings for penalties under this section.

Appointment.

It is not necessary for the vaccination officer to prove that he has the special authority of the guardians to take proceedings in any particular case under this section; it is sufficient, if his authority is questioned, for him to prove that he is an officer appointed by the guardians to enforce the provisions of the Vaccination Acts by the production of the minute books of the guardians containing the minutes of his appointment as vaccination officer, and the consent of the Local Government Board to such appointment (*Bramble* v. *Lowe*, [1897] 1 Q. B. 283; 66 L. J. Q. B. 243; 45 W. R. 366; 61 J. P. 168).

Notice.

No particular form of notice is necessary (*Tebb* v. *Jones*, 37 L. T. 576; 42 J. P. 55). The form K. in the Vaccination Order, 1898, may be used. No particular mode of service of the notice is necessary. It is sufficient if it reaches the parent (*Holloway* v. *Coster*,

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children under fourteen years of age.

within the union or parish for which the informant acts, has not been successfully vaccinated, and that he has given notice to the parent or person having the custody of such child to procure its being vaccinated, and that this notice has been disregarded, the justice may summon such parent or person to appear with the child before him at a certain time and place, and upon the appearance, if the justice shall find, after such examination as he shall deem necessary, that the child has not been vaccinated, nor has already had the small-pox, he may, if he see fit, make an order under his hand and seal directing such child to be vaccinated within a certain time; and if at the expiration of such time the child shall not have been so vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the persons upon whom

Penalty for disobedience.

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[1897] 1 Q. B. 347; 66 L. J. Q. B. 293; 76 L. T. 57; 45 W. R. 319; 61 J. P. 218).

Note.

Summons and appearance.

An order under this section may be made by a justice other than the justice by whom the information was received and the summons issued (*Southcombe* v. *Yeovil Guardians*, [1897] 1 Q. B. 343; 66 L. J. Q. B. 294; 76 L. T. 58; 45 W. R. 318; 61 J. P. 230).

The production or "appearance" of the child is not a condition precedent to the justice's power to make an order under this section (*Dutton* v. *Atkins*, L. R. 6 Q. B. 373; 40 L. J. M. C. 157; 24 L. T. (N. S.) 207; 19 W. R. 799; 35 J. P. 358). And an order may be made by virtue of sect. 13 of the S. J. Act, 1848 (11 & 12 Vict. c. 43), although the parent do not appear (*Reg.* v. *Cinque Ports, Justices of*, 17 Q. B. D. 191; 55 L. J. M. C. 156; 34 W. R. 789; 50 J. P. 228).

Order.

Before the Vaccination Act, 1898, a parent, having been fined under this section for disobeying an order to have his child vaccinated, might be proceeded against from time to time, and fresh orders to have the child vaccinated might be made, as long as the child remained unvaccinated (*Allen* v. *Worthy*, L. R. 5 Q. B. 163; 39 L. J. M. C. 36; 21 L. T. (N. S.) 665; 34 J. P. 263; *Knight* v. *Halliwell*, L. R. 9 Q. B. 412; 43 L. J. M. C. 113; 30 L. T. (N. S.) 359; 22 W. R. 689; 38 J. P. 470). But a second fine could not be imposed for disobedience to the same order directing a child to be vaccinated (*Reg.* v. *Portsmouth JJ.*, [1892] 1 Q. B. 491; 61 L. J. M. C. 126; 66 L. T. 677; 40 W. R. 413; 56 J. P. 470).

Now, by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), s. 3, an order under this section shall not be made on any person who has previously been convicted of non-compliance with a similar order relating to the same child.

Where an order has been made under this section, summary proceedings for the enforcement of the order may be taken under the section by the vaccination officer without obtaining special directions to that effect from the guardians (*Reg.* v. *Brocklehurst*, [1892] 1 Q. B. 566; 61 L. J. M. C. 48; 65 L. T. 714; 40 W. R. 64; 56 J. P. 182).

It was no defence to the summary proceedings for the enforcement of an order made under this section, that there had been no attendances of the public vaccinator since the order was made (*Francis* v. *Smith*, 58 J. P. 429).

Upon the hearing of a summons under this section against the

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such order shall have been made shall be proceeded against summarily, and, unless he can show some reasonable ground for his omission to carry the order into effect, shall be liable to a penalty not exceeding twenty shillings:

Proviso for costs to person improperly summoned.

Provided that if the justice shall be of opinion that the person is improperly brought before him, and shall refuse to make any order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider to be a fair compensation for his expenses and loss of time in attending before the justice.

Penalty upon persons inoculating with small-pox.

XXXII. Any person who shall produce or attempt to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article, or thing impregnated with variolous matter, or wilfully by any other means whatsoever produce, the disease of small-pox in any person, shall be guilty of an offence, and shall be liable to be proceeded against summarily, and upon conviction to be imprisoned for any term not exceeding one month.

Summary proceedings.

XXXIII. The Summary Jurisdiction Act, 1848, except section eleven, shall apply to all proceedings to be taken under this

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Sect. 31. Note.

parent of a child for non-compliance with an order of justices directing him to have his child vaccinated, the burden of proving non-compliance is upon the prosecution. Evidence that the certificate of vaccination has not been received by the proper officer is *primâ facie* evidence from which non-compliance with the vaccination order may properly be presumed (*Orer* v. *Harwood* [1900] 1 Q. B. 803.

Costs may be recovered against a defendant under this section, and the order for payment of such costs enforced by distress and imprisonment in default of distress (*Reg.* v. *Burrows*, 61 J. P. 724). It was also held that a person committed to prison in default of distress for non-payment of a fine under this section was a "criminal prisoner" within the meaning of the Prisons Act, 1865 (28 & 29 Vict. c. 126), s. 5, and must be treated as such (*Kennard* v. *Simmons*, 50 L. T. 28; 48 J. P. 551). But now he must be treated as a first class misdemeanant (Vaccination Act, 1898 (61 & 62 Vict. c. 49), s. 5).

Sect. 32. Note.

Before this Act, it was an indictable offence to inoculate incautiously and in a way calculated to effect the public health (*Rex* v. *Burnett*, 4 M. & S. 272; *Rex* v. *Vantandillo*, 4 M. & S. 73).

By the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 4, the court may impose a fine instead of imprisonment.

Sect. 33. Note.

Sect. 11 of the S. J. Act, 1848, limits the time for making a complaint or laying an information to six months from the date of the offence. By the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 11, the period for making a complaint, &c., under the Vaccination Acts is limited to twelve months from the date of the offence. (See *Langridge* v. *Hobbs*, [1901] 1 Q. B. 497, *ante*, p. 1097).

For "registrar" read "vaccination officer" (34 & 35 Vict. c. 98, s. 6)

7 & 8 Vict. c. 101, s. 59, and 28 & 29 Vict. c. 79, s. 9, relate to the payment of costs of prosecutions by guardians out of the common fund.

Act; and the justices for the county, city, borough, or other place where the offence shall have been committed shall have jurisdiction to hear and determine the complaint, and where a union or parish shall be comprised in several jurisdictions the complaint as to any matter arising in such union or parish may be heard and determined in any one of such jurisdictions; and all prosecutions undertaken by the guardians or their officers or any *registrar* under this Act shall be deemed to be within the operation of the Poor Law Amendment Act, 1844, section fifty-nine, and the Union Chargeability Act, 1865, section nine.

Sect. 33.
11 & 12 Vict. c. 43.
7 & 8 Vict. c. 101, s. 59.
28 & 29 Vict. c. 79, s. 9.

XXXIV. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the registrar or any other officer of the requirements of the law in this respect; but if the defendant produce any such certificate as herein-before described, or the register of vaccinations kept by the registrar as herein-before provided, in which the certificate of successful vaccination of such child shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate marked B., when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Provisions as to evidence in prosecutions.

XXXV. The word "parent" shall include the father and mother of a legitimate child and the mother of an illegitimate child; "medical practitioner" shall mean a registered medical practitioner; and the several words herein contained shall be construed, except where any inconsistency would ensue from such construction, in the same manner as in the several Acts for the amendment of the law for the relief of the poor.

Interpretation.

[Sect. 36. *Sect. 7 of 21 & 22 Vict. c. 97, to apply to acts of Privy Council:* Repealed by the S. L. R. Act (No. 2), 1893.]

XXXVII. This Act may be cited as "The Vaccination Act of 1867."

Short title.

SCHEDULE OF FORMS.

[Repealed by the S. L. R. Act (No. 2), 1893, and now replaced by the schedule to the Vaccination Order, 1898.]

Sect. 34. Note.

The certificate mentioned in this section, although a defence to proceedings under sect. 29, is no defence to proceedings under sect. 31 (*Allen* v. *Worthy*, L. R. 5 Q. B. 163; 39 L. J. M. C. 36; 21 L. T. (N. S.) 665; 34 J. P. 263. And see note to sect. 31, *supra*, as to evidence on prosecutions).

Sect. 35. Note.

The meaning of "parent" is extended by the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 4.

REPRESENTATION OF THE PEOPLE ACT, 1867.

30 & 31 VICT. CHAP. 102.

An Act further to amend the Laws relating to the Representation of the People in England and Wales.

[15th August, 1867.]

[*Preamble.*]

[By the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 2 (1), 20 (3), and 44 (1), persons entitled to vote for guardians are those whose names are on the register of parochial electors of the parish, which register is made up of the Parliamentary register and the local government register. This Act is therefore printed here, but it is beyond the scope of this work to enter minutely into the law regarding the Parliamentary franchise.]

Sect. 1.

Short title.

[I.] This Act shall be cited for all purposes as "The Representation of the People Act, 1867."

Application of Act.

II. This Act shall not apply to Scotland or Ireland, nor in anywise affect the election of members to serve in Parliament for the Universities of Oxford or Cambridge.

PART I.

FRANCHISES.

Occupation franchise for voters in boroughs.

III. Every man shall be entitled to be registered as a voter, . . . for a member or members to serve in Parliament for a borough, who is qualified as follows (that is to say):

1. Is of full age, and not subject to any legal incapacity; and

2. Is on the *last* day of July in any year, and has during the whole of the preceding twelve calendar months been an

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Sect. 3.

Note.

This section is extended to counties by the Representation of the People Act, 1884 (48 Vict. c. 3), ss. 2, 7.

The "last" day of July is altered to the "fifteenth" day of July by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7.

By the House Occupiers Disqualification Removal Act, 1878 (41 & 42 Vict. c. 3), s. 2, letting the house as a furnished house for a period not exceeding four months does not disqualify; and by the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), temporary absence for a period not exceeding four months at any one time in performance of duty does not disqualify.

A "dwelling-house" includes a part of a house separately occupied as a dwelling. (See the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 5.)

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inhabitant occupier, as owner or tenant, of any dwelling-house within the borough; and

3. Has during the time of such occupation been rated as an ordinary occupier in respect of the premises so occupied by him within the borough to all rates (if any) made for the relief of the poor in respect of such premises; and

4. Has on or before the twentieth day of July in the same year *bonâ fide* paid an equal amount in the pound to that payable by other ordinary occupiers in respect of all poor rates that have become payable by him in respect of the said premises up to the preceding fifth day of January:

Provided, that no man shall under this section be entitled to be registered as a voter by reason of his being a joint occupier of any dwelling-house.

Lodger franchise for voters in boroughs.

IV. Every man shall be entitled to be registered as a voter, . . . for a member or members to serve in Parliament for a borough, who is qualified as follows (that is to say):

1. Is of full age, and not subject to any legal incapacity; and

2. As a lodger has occupied in the same borough separately and as sole tenant for the twelve months preceding the *last* day of July in any year the same lodgings, such lodgings being part of one and the same dwelling-house, and of a clear yearly value, if let unfurnished, of ten pounds or upwards; and

3. Has resided in such lodgings during the twelve months immediately preceding the *last* day of July, and has claimed to be registered as a voter at the next ensuing registration of voters.

Property franchise for voters in counties.

V. Every man shall be entitled to be registered as a voter, . . . for a member or members to serve in Parliament for a county, who is qualified as follows (that is to say):

1. Is of full age, and not subject to any legal incapacity, and is seised at law or in equity of any lands or tenements of freehold, copyhold, or any other tenure whatever, for his own life, or for the life of another, or for any lives whatsoever, or for any larger estate, of the clear yearly value of not less than five pounds over and above all

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Sect. 4.

Note.

This section is extended to counties by the Representation of the People Act, 1884 (48 Vict. c. 3), ss. 2, 7.

The "last" day of July is altered to the "fifteenth" day of July by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 7.

"Lodgings" are defined by *ib.* s. 5, and provision made with regard to additional lodgings, successive lodgings in the same house, and joint occupation of lodgings by *ib.* s. 6.

Sect. 5.

rents and charges payable out of or in respect of the same, or who is entitled, either as lessee or assignee, to any lands or tenements of freehold or of any other tenure whatever, for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years (whether determinable on a life or lives or not), of the clear yearly value of not less than five pounds over and above all rents and charges payable out of or in respect of the same :

Provided, that no person shall be registered as a voter under this section unless he has complied with the provisions of the twenty-sixth section of the Representation of the People Act, 1832.

2 & 3 Will. 4, c. 45.

[Sect. 6. Repealed by the Representation of the People Act, 1884 (48 & 49 Vict. c. 3), s. 12.

Occupiers in boroughs to be rated and not owners.

VII. Where the owner is rated at the time of the passing of this Act to the poor rate in respect of a dwelling-house or other tenement situate in a parish wholly or partly in a borough, instead of the occupier, his liability to be rated in any future poor rate shall cease, and the following enactments shall take effect with respect to rating in all boroughs :

1. After the passing of this Act no owner of any dwelling-house or other tenement situate in a parish either wholly or partly within a borough shall be rated to the poor rate instead of the occupier, except as herein-after mentioned :
2. The full rateable value of every dwelling-house or other separate tenement, and the full rate in the pound payable by the occupier, and the name of the occupier, shall be entered in the rate-book :

Owners of houses let in lodgings to be rated.

Where the dwelling-house or tenement shall be wholly let out in apartments or lodgings not separately rated, the owner of such dwelling-house or tenement shall be rated in respect thereof to the poor rate :

Provided as follows :

* * * * *

Occupier of house let free from rates may deduct from rent

3. That where the occupier under a tenancy subsisting at the time of the passing of this Act of any dwelling-house or other tenement which has been let to him free from rates is rated and has paid rates in pursuance of this Act he may deduct from any rent due or accruing due

Sect. 7.

Note.

The first two provisoes to this section are repealed by the S. L. R. Act, 1875.

The provisions of this section are subject to the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), which by sects. 3, 4, empowers owners of small tenements to be rated instead of the occupiers, but by sect. 7 preserves all franchises to the occupiers.

from him in respect of the said dwelling-house or other tenement any amount paid by him on account of the rates to which he may be rendered liable by this Act.

Sect. 7. the amount paid in respect of rates.

[Sect. 8. Repealed by the S. L. R. Act, 1875.]

IX. At a contested election for any county or borough represented by three members no person shall vote for more than two candidates.

Number of votes in three-member constituencies.

[Sect. 10. Repealed by the S. L. R. Act, 1893.]

XI. No elector who within six months before or during any election for any county or borough shall have been retained, hired, or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger, or in other like employment, shall be entitled to vote at such election, and if he shall so vote he shall be guilty of a misdemeanour.

No elector who has been employed for reward as agent, &c. within six months of an election to be entitled to vote.

[Sect. 12. Repealed by the S. L. R. Act, 1893.]

[Sects. 13—16. Repealed by the Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 27.]

PART II.

DISTRIBUTION OF SEATS.

[This part of the Act has no bearing on the composition of the registers.]

PART III.

SUPPLEMENTAL PROVISION.

Incidents of Franchise.

XXVI. Different premises occupied in immediate succession by any person as owner or tenant during the twelve calendar months next previous to the *last* day of July in any year shall, unless and except as herein is otherwise provided, have the same effect in qualifying such person to vote for a county or borough as a continued occupation of the same premises in the manner herein provided.

As to successive occupations.

XXVII. In a county, where premises are in the joint occupation of several persons as owners or tenants, and the

As to joint occupation in counties.

For "last" of July, now read "fifteenth" of July (41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12).

Sect. 26. Note.

For "aggregate rateable" value now read "clear yearly" value (48 & 49 Vict. c. 3, s. 5).

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aggregate rateable value of such premises is such as would, if divided amongst the several occupiers, so far as the value is concerned, confer on each of them a vote, then each of such joint occupiers shall, if otherwise qualified, and subject to the conditions of this Act, be entitled to be registered as a voter, and when registered, to vote at an election for the county: Provided always, that not more than two persons, being such joint occupiers, shall be entitled to be registered in respect of such premises, unless they shall have derived the same by descent, succession, marriage, marriage settlement, or devise, or unless they shall be *bonâ fide* engaged as partners carrying on trade or business thereon.

Notice of rates in arrear to be given by overseers to occupiers in boroughs.

XXVIII. Where any poor rate due on the fifth day of January in any year from an occupier in respect of premises capable of conferring the franchise for a borough remains unpaid on the first day of June following, the overseers whose duty it may be to collect such rate shall on or before the twentieth of the same month of June, unless such rate has previously been paid, or has been duly demanded by a demand note, to be served in like manner as the notice in this section referred to, give or cause to be given a notice . . . to every such occupier. The notice shall be deemed to be duly given if delivered to the occupier or left at his last or usual place of abode, or with some person on the premises in respect of which the rate is payable. Any overseer who shall wilfully withhold such notice, with intent to keep such occupier off the list or register of voters for the said borough, shall be deemed guilty of a breach of duty in the execution of the Registration Acts.

Penalty for wilfully withholding notice.

Overseers to make out a list of persons

XXIX. The overseers of every parish wholly or partly within a borough shall on or before the twenty-second day of July in

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Sect. 28.

Note.

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 10, this section is to apply to occupiers, although the owners of the premises are liable for the rates under that Act.

This section is made applicable with modifications to municipal voters in municipal and Parliamentary boroughs by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 10.

See the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 51, 97; and the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19, for penalties to which overseers are liable for neglect of duty in the execution of the Registration Acts.

Sect. 29.

Note.

This section is made applicable with modifications to municipal voters in municipal and Parliamentary boroughs by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 10.

See the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 51, 97; and the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19, for penalties to which overseers are liable for neglect of duty in the execution of the Registration Acts.

Sect. 29.

every year make out a list containing the name and place of abode of every person who shall not have paid on or before the twentieth day of the same month all poor rates which shall have become payable from him in respect of any premises within the said parish before the fifth day of January then last past; and the overseers shall keep the said list, to be perused by any person, without payment of any fee, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday during the first fourteen days after the said twenty-second day of July; any overseer wilfully neglecting or refusing to make out such list, or to allow the same to be perused as aforesaid, shall be deemed guilty of a breach of duty in the execution of the Registration Acts.

in arrear of rates in boroughs, which shall be open to perusal without fee.

Penalty on overseer for neglect.

Registration of Voters.

XXX. The following regulations shall be observed with respect to the registration of voters:

Regulations as to registration of voters.

1. The overseers of every parish or township shall make out or cause to be made out a list of all persons on whom a right to vote for a county in respect of the occupation of premises is conferred by this Act, in the same manner, and subject to the same regulations, as nearly as circumstances admit, in and subject to which the overseers of parishes and townships in boroughs are required by the Registration Acts to make out or cause to be made out a list of all persons entitled to vote for a member or members for a borough in respect of the occupation of premises of a clear yearly value of not less than ten pounds:

Lists of voters qualified by occupation in counties.

2. The claim of every person desirous of being registered as a voter for a member or members to serve for any borough in respect of the occupation of lodgings . . . shall after the last day of July and on or before the *twenty-fifth* day of August in any year be delivered to the overseers of the parish in which such lodgings shall be situate, and the particulars of such claim shall be duly published by such overseers on or before the first day of September next ensuing in a separate list . . .

Claims by persons qualified as voters in boroughs by occupation of lodgings.

So much of section 18 of the Parliamentary Voters Registration Act, 1843, as relates to the manner of publishing lists of claimants, and to the delivery of copies thereof

6 & 7 Vict. c. 18.

Sect. 30.

Note.

So much of this section as relates to persons entitled to vote for a county in respect of premises other than lodgings is repealed by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 17. By the Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 20, the names of lodgers are to appear in a separate list.

For "twenty-fifth" day of August now read "twentieth" (48 & 49 Vict. c. 15, s. 3 (1)).

Sect. 33.

to persons requiring the same, shall apply to every such claim and list; and all the provisions of the 38th and 39th sections of the same Act with respect to the proof of the claims of persons omitted from the lists of voters, and to objections thereto, and to the hearing thereof, shall, so far as the same are applicable, apply to claims and objections, and to the hearing thereof, under this section.

Extension of meaning of "expenses" in 6 & 7 Vict. c. 18, ss. 54, 55.

XXXI. The word "expenses" contained in the sections fifty-four and fifty-five of the Parliamentary Voters Registration Act, 1843, shall be deemed to and shall include and apply to all proper and reasonable fees and charges of any clerk of the peace of any county, or of any town clerk of any city or borough, to be hereafter made or charged by him in any year for his trouble, care, and attention in the performance of the services and duties imposed upon him by the same Act or by this Act, in addition to any money actually paid or disbursed by him for or in respect of any such services or duties as aforesaid.

[Sect. 32. Repealed by the S. L. R. Act, 1893.]

Places for Election, and Polling Places.

Courts for the election of members for divisions of counties, as in schedule (D).

XXXIII. The court for the election of members for each of the divisions mentioned in the second column of the said schedule (D.) shall be holden at the places named for that purpose in the fourth column of the same schedule.

Provision for appointment of polling districts and polling places, for holding revision courts in counties.

XXXIV. In every county *the justices of the peace having jurisdiction therein or in the larger part thereof, assembled at some court of general or quarter sessions, or at some adjournment thereof, held after the passing of this Act*, may, if they think convenience requires it, divide such county into polling districts, and assign to each district a polling place, in such manner as to enable each voter, so far as practicable, to have a polling place within a convenient distance of his residence; and *the justices* shall advertise in such manner as they think fit a description of the polling districts so constituted by them, and the name of the polling place assigned to each district, and shall name the polling places at which the revising barristers are to hold their courts, and no revising barrister shall be obliged to hold his courts at any polling places not so

Sect. 31. Note.

Extended by the Registration Act, 1885 (48 Vict. c. 15), s. 8, to the duties of clerks of the peace and town clerks under the Representation of the People Act, 1884, and that Act.

Sect. 33. Note.

Schedule (D.) is repealed by the S. L. R. Act, 1893. See now the Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 16.

Sect. 34. Note.

The jurisdiction of the justices under this section is now vested in the county council by the Local Government Act, 1888 (51 & 52 Vict. c. 41) ss. 3 (xii.), 46.

named: Provided, that the *justices of the peace* for the Isle of Ely, *assembled as aforesaid*, shall carry into effect the provisions of this section so far as regards the said Isle of Ely; but nothing herein contained shall affect the powers conferred by any other Act of Parliament of altering polling places or polling districts, or of creating additional polling places or districts:

Sect. 34.

Proviso as to Isle of Ely.

The local authority of every borough shall, if they think convenience requires it, as soon as may be after the passing of this Act, divide such borough into polling districts, and the returning officer shall in the case of a contested election provide at least one booth or room for taking the poll in each polling district; and in cases where a Parliamentary borough is constituted of two or more towns, the distance between two of which shall exceed two miles, there shall be provided a booth or room for taking the poll in each of such towns:

Polling districts and places in boroughs.

Where any parish in a borough is divided into or forms part of more than one polling district, the overseers shall, so far as practicable, make out the lists of voters in such manner as to divide the names in conformity with each polling district:

List of voters, where a parish forms part of more than one district.

The town clerk, as defined by the Parliamentary Voters Registration Act, 1843, shall cause the lists of voters for each borough to be copied, printed, arranged, and signed, and delivered in the manner directed by the said Act, so as to correspond with the division of the borough into polling districts:

6 & 7 Vict. c. 18.

A description of the polling districts made or altered in pursuance of this Act shall be advertised by the local authority in such manner as they think fit, and notice of the situation, division, and allotment of the polling booth or place for each district shall be given in manner now required by law:

The local authority shall mean in every municipal borough, and in every borough any part of which forms a municipal borough, the town council of such borough, and in cases where a Parliamentary borough is constituted by the combination of two or more municipal boroughs, then the local authority shall mean the town council of that municipal borough in which the nomination takes place:

The local authority may from time to time alter any districts made by them under this Act.

[Sect. 35. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

[Sect. 36. Repealed by the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 66.]

Sect. 37.

Rooms to be hired for taking polls, wherever they can be obtained.

XXXVII. At every contested election for any county or borough, unless some building or place belonging to the county or borough is provided for that purpose, the returning officer shall, whenever it is practicable so to do, instead of erecting a booth, hire a building or room for the purpose of taking the poll:

* * * * *

Alteration as to time for delivery of lists and commencement of register of voters.

6 & 7 Vict. c. 18, ss. 47, 48.

XXXVIII. The forty-seventh and forty-eighth sections of the Parliamentary Voters Registration Act, 1843, relating to the transmission and delivery of the book or books containing the lists of voters to the sheriff and returning officer, shall be construed as if the word "December" were substituted in those sections for the word "November," and the said book or books shall be the register of persons entitled to vote for the county or borough to which such register relates at any election which takes place during the year commencing on the first day of January next after such register is made, . . .

[Sect. 39. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

2 & 3 Will. 4, c. 45, s. 36, as to disqualification as voter by receipt of parochial relief, to apply to counties as well as boroughs.

XL. The thirty-sixth section of the Representation of the People Act, 1832, disqualifying persons in receipt of parochial relief from being registered as voters for a borough, shall apply to a county also, and the said section shall be construed as if the word "county" were inserted therein before the word "city"; and the overseers of every parish shall omit from the lists made out by them of persons entitled to vote for the borough and county in which such parish is situate the names of all persons who have received parochial relief within twelve calendar months next previous to the *last* day of July in the year in which the list is made out.

[Sects. 41—46 refer only to elections in the University of London.]

[Sect. 47. *As to returning officers in new boroughs:* See now on this subject the Redistribution of Seats Act, 1885 (48 & 49 Vict. c. 23), s. 12.]

[Sect. 48. Repealed by the S. L. R. Act, 1875.]

Corrupt payment of rates to be punishable as

XLIX. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence

Sect. 37. Note.

The remainder of this section is repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33).

Sect. 40. Note.

For "last" of July read now "fifteenth" of July (41 & 42 Vict. c. 26, s. 7).

his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made shall also be guilty of bribery, and punishable accordingly.

Sect. 49.

bribery, on part of both payer and voter.

L. No returning officer for any county or borough, nor his deputy, nor any partner or clerk of either of them, shall act as agent for any candidate in the management or conduct of his election as a member to serve in Parliament for such county or borough; and if any returning officer, his deputy, the partner or clerk of either of them, shall so act, he shall be guilty of a misdemeanour.

Returning officer, &c. acting as agent guilty of misdemeanour.

LI. [*Recital.*] The Parliament in being at any future demise of the Crown shall not be determined or dissolved by such demise, but shall continue so long as it would have continued but for such demise, unless it should be sooner prorogued or dissolved by the Crown, anything in the Succession to the Crown Act, 1707, in any way notwithstanding.

Demise of Crown not to dissolve Parliament.

6 Ann. c. 7, s. 4.

LII. [*Recital.*] Where a person has been returned as a member to serve in Parliament since the acceptance by him from the Crown of any office described in schedule (H.) to this Act annexed, the subsequent acceptance by him from the Crown of any other office or offices described in such schedule in lieu of and in immediate succession the one to the other shall not vacate his seat.

Member returned after accepting any office of profit from the Crown, as in schedule (H.), not required to vacate his seat on acceptance of another office.

[Sect. 53. Repealed by the S. L. R. Act, 1893.]

[Sect. 54. Repealed by the S. L. R. Act, 1875.]

LV. Nothing in this Act contained shall affect the rights of persons whose names are for the time being on the register of voters for any county in which the boroughs constituted by this Act are situate to vote in any election for such county in respect of any vacancy that may take place before the summoning of a future Parliament; but after such summoning no person shall be entitled to be registered as a voter or to vote in any election for any such county who would not be entitled to be so registered or to vote in case the qualifications held by him were situate in a borough other than one constituted by this Act.

No person to vote for a county in which any new borough is situate who would not be entitled to vote if his qualification were in an existing borough.

* * * * *

LVI. The franchises conferred by this Act shall be in addition to and not in substitution for any existing franchises,

New franchises to be in addition to

Sect. 55.

Note.

The remainder of this section is repealed by the S. L. R. Act, 1875.

Sect. 56.

existing franchises.

Saving and application of existing laws, &c.

but so that no person shall be entitled to vote for the same place in respect of more than one qualification; and subject to the provisions of this Act, all laws, customs, and enactments now in force conferring any right to vote, or otherwise relating to the representation of the people in England and Wales, and the registration of persons entitled to vote, shall remain in full force, and shall apply, as nearly as circumstances admit, to any person, hereby authorized to vote, and shall also apply to any constituency hereby authorized to return a member or members to Parliament as if it had heretofore returned such members to Parliament, and to the franchises hereby conferred, and to the registers of voters hereby required to be formed.

As to issue, &c. of writs for elections for divisions of County Palatine of Lancaster, and for boroughs in the county.

LVII. The County Palatine of Lancaster shall cease to be a county palatine, in so far as respects the issue, direction, and transmission of writs for the election of members to serve in Parliament for any division of the said county, or for any borough situate in the said county; and such writs may be issued under the same seal, be directed to the like officer, and transmitted in the like manner, under, to, and in which writs may be issued, directed and transmitted in the case of divisions of counties and boroughs not forming part of or situate in a county palatine; and any writ, issued, directed, and transmitted in manner directed by this section shall be valid accordingly.

Writs, &c. to be made conformable to this Act.

LVIII. All writs to be issued for the election of members to serve in Parliament, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs or relating to the registration of voters, shall be framed and expressed in such manner and form as may be necessary for carrying the provisions of this Act into effect.

This Act, as far as consistent, to be construed with enactments now in force.

Construction of 2 & 3 Will. 4, c. 45, ss. 24, 25.

LIX. This Act, so far as is consistent with the tenor thereof, shall be construed as one with the enactments for the time being in force relating to the representation of the people, and with the Registration Acts; and in construing the provisions of the twenty-fourth and twenty-fifth sections of the Representation of the People Act, 1832, the expressions "the provisions herein-after contained," and "as aforesaid," shall be deemed to refer to the provisions of this Act conferring rights to vote as well as to the provisions of the said Act.

[Sect. 60. Repealed by the S. L. R. Act, 1875.]

Interpretation of terms.

LXI. The following terms shall in this Act have the meanings herein-after assigned to them, unless there is something in the context repugnant to such construction; (that is to say,)

* * * * *

"Member":

"Member" shall include a knight of the shire:

Sect. 61.

"Election" shall mean an election of a member or members to serve in Parliament: "Election":

"County" shall not include a county of a city or county of a town, but shall mean any county, riding, parts or divisions of a county returning a member or members to serve in Parliament: "County":

"Borough" shall mean any borough, city, place, or combination of places, not being a county as herein-before defined, returning a member or members to serve in Parliament: "Borough":

* * * * *

"The Registration Acts" shall mean the Parliamentary Voters Registration Act, 1843, and the County Voters Registration Act, 1865, and any other Acts or parts of Acts relating to the registration of persons entitled to vote at and proceedings in the election of member to serve in Parliament for England and Wales. "The Registration Acts": 6 & 7 Vict. c. 18. 28 Vict. c. 36.

SCHEDULES.

SCHEDULE (A.).

Sect. 17.

Boroughs to return one Member only in future Parliaments.

* * * * *

New Malton. Windsor.

SCHEDULE (B.).

Sect. 19.

New Boroughs.

County.	Places to be Boroughs.	* * * Contents or Boundaries.
* * *	* * *	* * *
Durham . . .	Darlington .	* * *
	The Hartlepools	Municipal Borough of Hartlepool. Townships of— Throston. Stranton. Seaton Carew.
	Stockton . .	
Kent	Gravesend .	
Lancashire . . .	Burnley . .	
Lancashire and Cheshire	Staleybridge .	* * *
Staffordshire . . .	Wednesbury .	
Yorkshire, North Riding	Middlesborough	
Do. West Riding.	Dewsbury .	

[Schedules (C.), (D.), (E.), and (G.) are repealed by the S. L. R. Act, 1893.]

Schedule.

SCHEDULE (H.).

Offices of Profit referred to in this Act.

Lord High Treasurer.
Commissioner for executing the offices of Treasurer of the Exchequer of Great Britain and Lord High Treasurer of Ireland.
President of the Privy Council.
Vice-President of the Committee of Council for Education.
Comptroller of Her Majesty's Household.
Treasurer of Her Majesty's Household.
Vice-Chamberlain of Her Majesty's Household.
Equerry or Groom-in-Waiting on Her Majesty.
Any Principal Secretary of State.
Chancellor and Under Treasurer of Her Majesty's Exchequer.
Paymaster-General.
Postmaster-General.
Lord High Admiral.
Commissioner for executing the office of Lord High Admiral.
Commissioner of Her Majesty's Works and Public Buildings.
President of the Committee of Privy Council for Trade and Plantations.
Chief Secretary for Ireland.
Commissioner for administering the Laws for the Relief of the Poor in England.
Chancellor of the Duchy of Lancaster.
Judge-Advocate-General.
Attorney-General for England.
Solicitor-General for England.
Lord-Advocate for Scotland.
Solicitor-General for Scotland.
Attorney-General for Ireland.
Solicitor-General for Ireland.

POOR LAW AMENDMENT ACT, 1867.

30 & 31 VICT. CHAP. 106.

An Act . . . to provide sundry Amendments in the Laws for the Relief of the Poor.* [20th August, 1867.]

[Preamble recited that it was advisable to make the Poor Law Board permanent, and to amend the laws for the relief of the poor.]

[Sect. 1. *Repeal of* 10 & 11 *Vict. c.* 109, *s.* 28: Repealed by the S. L. R. Act, 1875.]

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 2.

Alteration of local Acts relating to the poor by provisional orders.

II. Where in any union or parish . . . the relief of the poor, or the making and levying of the poor rate, is subject to the control or regulation of any local Act, it shall be competent for the guardians of such union or parish having powers to exercise or duties to discharge under such Act to apply to the Poor Law Board to issue an order to repeal the whole or any part of such local Act, or to alter the same, such application having been agreed to by the majority at two successive meetings of the said guardians, and being forwarded in writing under the hand of the presiding chairman of the second of such meetings to the said Board; and the said Board may, if after due inquiry they shall deem it expedient, make and issue a provisional order for such repeal or alteration, and shall take all necessary steps for the confirmation of such order by Act of Parliament, but previously to such confirmation the said order shall not be of any validity whatever; and every Act of Parliament confirming such order shall be deemed a public general Act.

Poor Law Board may adjust intermingled parishes

III. Where several parts of any parish are separated from one another or intermixed with an adjoining parish, or where a parish is of great extent in area, and an application in writing shall be made to the Poor Law Board by one-tenth part in

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Sect. 2.

Note.

Words in this section excepting the metropolis from the operation of the section were repealed by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 3.

By the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 9, an application can be made under this section by any churchwardens, overseers, managers, commissioners, or other persons having any powers or duties under such local Act as is in this section mentioned, as well as by the guardians.

As to what is a "local Act" see *Reg.* v. *London County Council*, [1893] 2 Q. B. 455; 63 L. J. Q. B. 4; 69 L. T. 580; 42 W. R. 1; 58 J. P. 21.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60 (4), where under any local and personal Act guardians of a poor law union are elected for districts, the provisions of that Act with respect to the election of guardians shall apply as if each of such districts were a parish: and by sect. 60 (5) boards of guardians elected in pursuance of that Act are to have the same powers and duties under any local and personal Act as the then existing board of guardians.

Sect. 3.

Note.

As to the powers of the Local Government Board in dealing with isolated parts of parishes see the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 1; and as to parishes divided by borough or county boundaries, rivers, &c., see the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 4.

Powers similar to those conferred by this section are conferred on the Local Government Board with regard to metropolitan parishes by the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 4.

Sect. 3.

or divide extensive parishes by provisional orders, to be confirmed by Parliament.

value of owners of property and of ratepayers in the parish or parishes respectively interested in the subject, the said Board may, if satisfied by public inquiry on the spot, after fourteen days public notice of the time, place, and object of such intended inquiry, that the relief to the poor can be better administered in the parish or parishes by means of such re-adjustment or division as herein-after mentioned, make an order under seal for re-adjusting or dividing the said parishes according to the terms of the application, and for the purposes and objects set forth therein, or with such modifications as they shall deem expedient; and such order shall be made provisionally, and shall be submitted to Parliament, to be confirmed in the manner herein-before set forth.

[Sect. 4. *Qualification of guardians.* Sect. 5. *Owners residing in parishes not to vote by proxy.* Sect. 6. 7 & 8 *Vict.* c. 101, s. 21, *repealed and other provisions made as to voting in wards:* These sections are repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.]

Objections by overseers to names of owners on the register.

7 & 8 Vict. c. 101.

VII. The overseers may object to the names of any persons entered on the register of owners whom they shall believe to be dead, or to be disqualified from voting as such owners, and shall give public notice, according to the provision in the Poor Law Amendment Act, 1844, of the names to which they have made objections on some day between the fifth and fifteenth days of February, and shall send a copy of such notice to the clerk of the guardians, who shall hear and decide such objections at the time of his revision of the said register, in like manner as in the case of other objections.

Overseers may make fresh registers of owners and proxies.

VIII. The overseers may from time to time make a fresh register of owners who have claimed to vote for guardians, and of proxies, as they shall find necessary, causing the names to be copied from the former register, and the two to be carefully collated and verified.

[Sect. 9. *Returning officer to be concluded by the register whether revised or not:* Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.]

Voting of corporations and joint

X. Where any corporation aggregate, joint stock or other company, commissioners, or public trustees shall be rated, any

Sect. 7.

As to notice of objections see 7 & 8 Vict. c. 101, s. 15.

Note.

Sect. 8.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 2 (1), 20 (3), and 44 (1), the only persons entitled to vote for guardians are the persons whose names are on the register of parochial electors of the parish. Proxies cannot now vote.

Sect. 10.

Note.

This section is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so far as it relates to the election of

officer of such corporation, company, commissioners, or public trustees from time to time appointed by the governing body thereof, whose name shall be sent in writing to the overseers before the first day of March in any year, to be entered in the rate-book under the name of such corporation, company, commissioners, or public trustees, shall be entitled to vote in respect of the property assessed as if he were assessed in his own name for the same, and in the case of a parish divided into wards shall vote in that ward where the principal office of the corporation, company, commissioners, or public trustees shall be situated, if any, or otherwise in that ward where the greatest part of the property assessed shall be situated.

Sect. 10. stock companies, &c. as ratepayers.

XI. Where money has been collected in any parish by an assessment under the name and as and for a poor rate, the same shall be deemed to be a rate made for the relief of the poor within the meaning of the fortieth section of the Poor Law Amendment Act, 1834, and the sixteenth section of the Poor Law Amendment Act, 1844, notwithstanding any defect in the form of such assessment.

Informal poor rate, if paid, to qualify voters at the election of guardians. 4 & 5 Will. 4, c. 76, s. 40. 7 & 8 Vict. c. 101, s. 16.

[Sect. 12. *Where election set aside, previous guardian not entitled to act as guardian:* Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.]

XIII. Guardians may, with the approval of the Poor Law Board, hire or take on lease, temporarily, or for a term of years not exceeding five, any land or buildings for the purpose of the relief or employment of the poor and the use of the guardians or their officers, without any order of the said Board under seal.

Guardians may make temporary hirings for relief of poor, &c. without an order under seal.

XIV. The amount limited by the twenty-fourth section of the Poor Law Amendment Act, 1834, with reference to the

Increase of the limit of amount to be

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guardians. It is an extension of sect. 40 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76).

Sect. 10. Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so much of sect. 40 of 4 & 5 Will. 4, c. 76, as applies to the election of guardians is repealed.

Sect. 11. Note.

For the provision of workhouses and their equipment see Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 23, 25; Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 8; and Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 8.

Sect. 13. Note.

This section is applied to the metropolis by the Poor Law Loans Act, 1872 (35 & 36 Vict. c. 2), s. 2; but it appears to be to a large extent, if not altogether, repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2 (6).

Sect. 14. Note.

Sect. 14.

raised for building workhouses, under 4 & 5 Will. 4, c. 76, s. 24.

sums to be raised for the purpose of building workhouses, shall be increased, and instead of the limit of one year's amount of poor rates, as therein prescribed, a sum not exceeding two-thirds of the aggregate amount of poor rates raised during the three years therein mentioned may be raised for this purpose; and where the site shall be within any municipal borough, or within five miles from the outward boundary thereof, the cost of such site may be added to the sum aforesaid.

Provision for fixing the contributions to the common fund to be made by parts of parishes divided, &c.

25 & 26 Vict. c. 103.

XV. When any parish comprised in any union shall have been or shall be subdivided, or when any parish shall have been or shall be added to any union, after all the valuation lists have been finally approved, the contributions of the several parishes to the common fund thereof shall continue to be made according to the provisions of the Union Assessment Committee Act, 1862, and the Poor Law Board shall determine by their order the proportions according to which the several parts of the parish so divided or the parish so added shall contribute to the common fund until valuation lists for such parts or such parish respectively shall have been finally approved of by the assessment committee of the union, and shall also in respect of such divided parish determine the proportions of the liabilities of such parish to the common fund at the time of the division to be charged upon the several parts, according to the annual rateable value of the property comprised therein respectively.

[Sect. 16. *Proviso to sect.* 40 *and part of sect.* 43 *of* 7 *&* 8 *Vict. c.* 101, *repealed:* Repealed by the S. L. R. Act, 1875.]

Extended powers of members of dissolved boards of guardians.

5 & 6 Will. 4, c. 69.

XVII. The power conferred by the third section of the Union and Parish Property Act, 1835, upon the persons who were the guardians of any dissolved union at the time of its dissolution, shall extend to the persons who constituted the board of guardians of a parish when such board shall be dissolved.

Sect. 15.

Note.

Parishes may be divided by the Local Government Board under sect. 3 of this Act; the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 1; the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 4; and the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58). County councils have powers of dividing parishes under the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 57; and the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 36. Parishes may be added to unions under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32; and the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66.

Sect. 17.

Note.

Repealed as to the metropolis by the Poor Law Amendment Act, 1869 (32 & 33 Vict. c. 63), ss. 5, 24.

Sect. 18.

As to relieving officers being also registrars of marriages.

29 & 30 Vict. c. 113, s. 2.

XVIII. The second section of the Poor Law Amendment Act, 1866, *shall apply to a relieving officer who may hold the office of registrar of marriages simultaneously with that of relieving officer.*

Allowance not to be lost by reason of having been employed under another public authority.

XIX. Where an officer shall at the time of vacating his office be employed solely in the service of the guardians, he shall not be prevented from receiving a superannuation allowance by reason of his having been also employed under another public authority, provided that such last-mentioned employment shall have ceased not less than three years prior to his application for such allowance.

Superannuation allowances in cases of dissolved unions, &c.

XX. When any union shall have been or shall be dissolved, *or when any parish shall have been or shall be placed under the management of a board of guardians, the time passed in the service of such union or parish prior to such dissolution or the constitution of such board shall be deemed service, which the guardians of any other union comprising such parish, or the board of guardians for such parish, may, if they think fit, take into consideration in any case where an officer applies for a superannuation allowance; and* if any person shall by means of such dissolution be deprived of any office or employment, the Poor Law Board may, according to their judgment, award a compensation to be paid to such person, either in a sum certain or by way of annuity, and shall direct the same to be paid out of the poor rate of the parish or parishes for which such person was acting at the time of the dissolution, in such manner and according to such proportions as to the said Board shall appear equitable.

Sect. 18. Note.

Repealed, with saving of existing rights, by the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50), s. 20.

Sect. 19. Note.

Repealed, with saving of existing rights, by the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50), s. 20.

Sect. 20. Note.

The words in italics are repealed, with saving of existing rights, by the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50), s. 20.

The provisions of this section were extended to the case of a parish united to some one or more parishes to form a union, and to the officers of such parish by the Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2), s. 10, but that section is now repealed by 59 & 60 Vict. c. 50, s. 20.

In awarding compensation under this section for loss of office the profit of business derived by the clerk to the guardians from exceptional business performed at a sheriff's inquisition, for which he might reasonably charge and be paid within art. 3 of Gen. Ord., February 26th, 1866, was held to be properly taken into account (*Reg.* v. *Poor Law Board, Re Baylis*, L. R. 6 Q. B. 785; 41 L. J. M. C. 16; 25 L. T. (N. S.) 304).

Sect. 21.

Maintenance of adult paupers who are blind, or deaf and dumb, in hospitals or institutions.

XXI. The guardians may provide for the reception, maintenance, and instruction of any adult pauper, being blind, or deaf and dumb, in any hospital or institution established for the reception of persons suffering under such infirmities, and may pay the charges incurred in the conveyance of such pauper to and from the same, as well as those incurred in his maintenance, support, and instruction therein.

Detention of paupers suffering from mental disease, or infectious bodily disease, in workhouses, and removal to lunatic asylums, &c.

XXII. When there shall be in any workhouse a poor person suffering from mental disease, or from bodily disease of an infectious or contagious character, and the medical officer of such workhouse shall upon examination report in writing that such person is not in a proper state to leave the workhouse without danger to himself or others, the guardians may direct the master to detain such person therein, or, if the guardians be not sitting, the master of the workhouse may, until the next meeting of the guardians, detain him therein, and such person shall not be discharged from such workhouse until the medical officer shall in writing certify that such discharge may take place: Provided, however, that this enactment shall not prevent the removal of a lunatic to a lunatic asylum, registered hospital, or licensed house, when such removal is otherwise required by law, nor the removal of any poor person after the parent or next of kin of such person shall have given to the guardians such an undertaking as they shall deem satisfactory to provide for the removal, charge, and maintenance of such person, with due care and attention while the malady continues; and this provision shall apply to every district school and district asylum, and to the managers, board of management, medical officer, superintendent, or master thereof respectively.

Payments for pauper lunatics sent to asylums from boroughs

XXIII. When any pauper lunatic shall be sent to an asylum from any part of a borough wholly or partly comprised within a union, which borough shall not have contributed to the erection or maintenance of that asylum, the visitors of the

Sect. 21. Note.

As to blind and deaf children, see the Elementary Education (Blind and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42).

Sect. 22. Note.

This section is repealed by the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 342, except as regards persons suffering from *delirium tremens* or from bodily disease of a contagious or infectious character; and the detention of insane paupers in workhouses is provided for by sects. 20—26 of that Act.

Sect. 23. Note.

See the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 26, as to provision for pauper lunatics sent from boroughs to licensed houses and registered hospitals.

As to the charge which would be made in the case of a pauper lunatic sent from the county, see the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 284.

Sect. 23.

in unions, which have not contributed to asylums.

asylum shall, where the union and the borough are not conterminous, make out two accounts in respect of such lunatic in the asylum, one of which shall be limited to the charge which would be made in the case of a pauper lunatic sent from the county, and shall be transmitted to the guardians of the said union for payment, and the other, which shall contain the extra sum by law chargeable in respect of a pauper lunatic received into the same asylum from any other county, shall be transmitted to the town council of such borough, and shall be paid by them as other charges to which the borough fund may be liable.

Orders of removal from a union not formed under 4 & 5 Will. 4, c. 76, or from a parish not in union.

28 & 29 Vict. c. 79.

XXIV. When an order of removal is obtained by the guardians of any union not formed under the Poor Law Amendment Act, 1834, or by the guardians or overseers of any parish not included in any union so formed, in respect of a pauper alleged to be settled in some parish included in a union so formed, such order shall be addressed to the guardians of such union, and shall be dealt with in all respects as provided by the Union Chargeability Act, 1865.

[Sect. 25. *Provision for suspended orders of removal:* Repealed by the S. L. R. Act (No. 2), 1893.]

Orders of removal may be suspended in the case of unions, and the expenses recovered quarterly.

XXVI. When an order of removal is made upon the guardians of any union, its execution may be suspended in like manner as in the case of orders of removal heretofore made in parishes, and with the like requirements, liabilities, and consequences: Provided that the guardians of the union in whose favour such order is made may send an account to the guardians of the union upon whom it is made, at the end of every quarter, of the cost incurred in the maintenance of the pauper and of his family, as the case may require; and the said last-mentioned guardians may pay the same, and if they neglect to do so the said first-mentioned guardians may recover the amount of the sum reasonably expended by them in any county court within whose jurisdiction their union or the greater part thereof shall be situated.

Jurisdiction in unions extending into distinct jurisdictions.

Sect. 26.

Note.

XXVII. Where a union extends into several distinct jurisdictions, every matter, act, charge or complaint by which the

For the suspension of orders of removal in parishes, see the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 2; the Poor (Settlement and Removal) Act, 1809 (49 Geo. 3, c. 124), ss. 1, 3; the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 10; and the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 8.

Sect. 27.

Note.

The appellate jurisdiction under this section depends upon and is governed by the jurisdiction of the justices making the order appealed against, so that if a union extends into a borough, and an order of removal is made by justices of the borough, an appeal lies

Sect. 27.

guardians thereof are affected, or in which they have any interest, shall for the purpose of jurisdiction be deemed to arise or exist equally throughout the union.

Rates under sect. 15 of 26 & 27 Vict. c. 70, and accounts of collectors, to be subject to audit.

XXVIII. The rates made by the overseers under the provisions of the fifteenth section of the Public Works (Manufacturing Districts) Act, 1863, and the accounts of every officer who may collect the same, shall be subject to be audited by the same auditor and in the same manner as the rates made for the relief of the poor by the same overseers, and the accounts of the receipts and payments in respect of such poor rates.

Fire engines, &c. may be purchased and maintained out of poor rates for the use of parishes in certain cases.

XXIX. If the vestry of any parish, where there is no town council, local board, or other authority competent to provide the same, after due notice, shall resolve that the overseers shall provide any fire engine, ladder, or fire escape for general use in the parish, the overseers shall provide the same, and pay out of the poor rate the cost thereof, and of procuring a proper place wherein to keep the same, and of maintaining it as well as any such engine, ladder, or escape acquired by the parish in any other manner for such use, in a fit state of repair, and the charges of such persons as may be necessary for the use thereof, and the cost of suitable implements and accoutrements.

Short titles. Interpretation. Incorporation of Acts.

XXX. This Act may be cited as "The Poor Law Amendment Act, 1867," and the words contained herein shall be construed in like manner as in the Poor Law Amendment Act, 1834, and in the subsequent Acts amending, explaining, or extending the same: and all the provisions of such Acts now in force, so far as they are consistent with this Act, shall be incorporated herewith.

[*Schedule as to the citation of Poor Law Acts, 1834 to 1866*: Repealed by the S. L. R. Act, 1898, being replaced by the Short Titles Act, 1896 (59 & 60 Vict. c. 14.)]

Sect. 27. Note.

against the order to the borough quarter sessions, and not to the quarter sessions for the county (*R.* v. *Staffordshire JJ.*, L. R. 7 Q. B. 288; 41 L. J. M. C. 78; 20 W. R. 366; S. C. *Dudley Union* v. *Wolverhampton Union*, 25 L. T. (N. S.) 829). Whether an appeal by overseers or parish council against a valuation list under the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 32, can be brought to any quarter sessions within whose jurisdiction the union extends, or must be brought to the quarter sessions specified in that section, is doubtful (see *Reg.* v. *Eaton*, 8 Q. B. D. 158; 46 J. P. 229).

Sect. 29. Note.

In rural parishes, the powers of the vestry and of the overseers under this section are transferred to the parish council by the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 6 (1) (*a*), 6 (1) (*c*) (ii).

JUSTICES OF THE PEACE ACT, 1867.

30 & 31 VICT. CHAP. 115.

An Act to remove Disqualifications of Justices of the Peace in certain cases. [20th August, 1867.]

[I.] This Act may for all purposes be cited as "Justices of the Peace Act, 1867." Short title.

II. A justice of the peace shall not be incapable of acting as a justice at any petty or special or general or quarter sessions on the trial of an offence arising under an Act to be put in execution by a municipal corporation, or a local board of health, or improvement commissioners, or trustees, or any other local authority, by reason only of— Justices not incapable of acting in execution of Acts in cases herein specified.

(*a.*) His being, as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to or to be benefited by any fund to the account of which the penalty payable in respect of such offence is directed to be carried, or of which it will form part, or to contribute to any rate or expenses in diminution of which such penalty will go.

CONSECRATION OF CHURCHYARDS ACT, 1867.

30 & 31 VICT. CHAP. 133.

An Act relating to the Consecration of Churchyards. [20th August, 1867.]

[This Act is by the Consecration of Churchyards Act, 1868 (31 & 32 Vict. c. 47), made to apply to burial grounds attached or belonging to union houses.]

[*Preamble.*]

I. Where any ground adjoining to an existing churchyard has been or is added thereto, the bishop of the diocese may, if Consecration of ground added to an

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Sect. 2. Note.

A justice is precluded by the Justices Jurisdiction Act, 1742 (16 Geo. 2, c. 18), s. 3, from acting in the determination of appeals to quarter sessions against orders of adjudication or removal, or against rates "relating to any parish, township, or place where such justice is taxed, charged, or chargeable"; but by the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 29), s. 6, on an appeal against a rate no justice is disqualified by reason of being rated or liable to be rated in some other parish in the union than that for which the rate appealed against is made.

Sect. 1.

existing churchyard without presence of chancellor, &c.

he thinks fit, at the churchyard or in the church to which it belongs, by his own hand, or by the hand of any bishop of the United Church of England and Ireland lawfully appointed as his commissary, sign an instrument declaring or recording the consecration of such ground, without the presence of the chancellor or registrar of the diocese being necessary; and the signature of the bishop to such instrument shall be attested by the chancellor, or by a surrogate, or by any two clergymen of the diocese, and shall be in the following form, endorsed on a plan of the ground so added: I, *A. B.*, Bishop of , do hereby declare and record the ground added to the churchyard of , as on the within plan, to be consecrated ground and part of the said churchyard; and such instrument, so signed and attested, on being deposited in the registry of the diocese, shall have the same effect as a sentence of consecration.

No fees for attendance.

II. No officer of the bishop or of the diocese shall receive any fee for attendance at such consecration, or any allowance for travelling or for attendance.

Fee for deposit of instrument.

III. A fee of five shillings shall be payable to the registrar for the deposit of every such instrument of consecration.

4 & 5 Vict. c. 38.
12 & 13 Vict. c. 49.

IV. And whereas by the School Sites Act, 1841, and by the School Sites Act, 1849, powers are given to persons being seised in fee simple, fee tail, or for life of and in any manor or lands of freehold, copyhold, or customary tenure, and having the beneficial interest therein, to grant, convey, or enfranchise, by way of gift, sale, or exchange, in fee simple or for term of years, any quantity not exceeding one acre of such land as a site for a school; and it is expedient that the same powers should be extended to persons willing to grant land for the enlargement of churchyards or burial places in England or Wales: Be it therefore enacted, that the said Acts shall be deemed to apply to all persons desirous of granting land for the purpose of such enlargement, in the same way as if the said land had been granted as a site for a school: Provided nevertheless, that no such grant shall be made otherwise than in fee simple, and may be made in the form herein-after provided; and that every such grant made by any person seised only for life shall be valid without the concurrence therein of the person next entitled in remainder in fee simple or fee tail, and such conveyance shall be good and valid without any licence or writ of *ad quod damnum*, the Statutes of Mortmain, or any other statute or law, to the contrary notwithstanding.

School Sites Acts to apply to conveyances of land for enlargement of churchyards or burial grounds under this Act.

Form of conveyance of land for addition to an existing churchyard or burial place.

V. Any lands or hereditaments adjoining any churchyard or burial place may be conveyed for the purpose of adding thereto by a deed in the form following, with such variations (if any) as the circumstances of the case may require:

Sect. 5.

"I [*or* We, *or the corporate title of a corporation,*] under the authority of the Consecration of Churchyards Act, 1867, do hereby freely and voluntarily give, grant, and convey [*or, as the case may be,* do hereby, in consideration of the sum of to me, *or* us, *or* the paid, grant and convey] unto the person or persons, or corporation sole or aggregate, in whom the churchyard or the burial place known as of is now vested, his or their heirs or successors, all [*describing the hereditaments to be conveyed*], and all right, title, and interest in the same and every part thereof, to be held for ever as part of the said churchyard or burial place":

And every such conveyance shall be valid and effectual in the law to all intents and purposes.

Deed of gift, &c. not to be subject to stamp duties.

VI. [*Recital of* 59 *Geo.* 3, *c.* 134, *s.* 35; 3 *Geo.* 4, *c.* 72, *s.* 28.] No deed of gift, or grant, security, contract, agreement, deed, or conveyance, or other instrument, made for the purposes of this Act, or for the carrying into execution any of the powers, authorities, or provisions of this Act, shall be subject to any of the duties upon stamped vellum, parchment, or paper, anything in any Act or Acts of Parliament to the contrary notwithstanding.

Title to land added to churchyard or burial place not to be questioned after five years.

VII. From and after the expiration of five years after the conveyance of any lands or hereditaments for such addition to any churchyard or burial place and the inclosure of the same within one boundary fence, although the same shall not have been consecrated and although no burial shall have been had within the same during that period of time, the said lands and hereditaments shall, for the purposes of this Act, become and be and remain absolutely vested in the person or persons or corporation in whom the churchyard or burial place to which they are added is vested, free from all demand or claim of any person or persons or corporation whatsoever, and without being thereafter subject to any question as to any right, title, or claim thereto, or in any manner affecting the same.

Saving provisions of former Acts as to conveyance of lands as sites for churchyards.

VIII. Except as is by this Act expressly enacted, nothing therein contained shall affect the provisions of any Act of Parliament with reference to lands or hereditaments conveyed as sites for churchyards or to the conveyances thereof.

Exclusive right of burial in a portion of the land added to a churchyard may be secured to the giver thereof.

IX. Whenever any land shall be so added to a consecrated churchyard, and such land shall have been the gift of any person, whether resident or not in the parish or ecclesiastical district in which such churchyard is situated, it shall be lawful for the giver of such land to reserve the exclusive right in perpetuity of burial and of placing monuments and gravestones in a part of the land so added, not exceeding [*one-sixth part]

* The words in brackets are substituted for "fifty square yards or one-sixth," by the Consecration of Churchyards Act, 1868 (31 & 32 Vict. c. 47), s. 1.

Sect. 9.

of the whole of the said land; and the part in which such exclusive right is reserved shall be shown and coloured on the plan indorsed on the instrument declaring or recording the consecration of the land added to the churchyard; and a memorandum in the form following shall be written on the said instrument, and signed by the incumbent and churchwardens of the parish or ecclesiastical district in which the same is situated:

We, *A. B.*, [Rector, Vicar, *or* Incumbent,] and *C. D.* and *E. F.* Churchwardens, of , declare the piece of land [*here insert the description and measurement*], and coloured on this plan, to be the burial place of *G. H.*, the giver of the land added to the churchyard of , his heirs and assigns.

Signed, *A. B.*,
C. D.,
E. F.,
in the presence of *J. K.*

Dated this day of .

And the memorandum so signed shall, after such land shall have been declared to have been consecrated, operate as an exclusive right in perpetuity in the land therein referred to; and the expenses of preparing and executing such memorandum shall be borne by the person by whom the reservation is made.

Conditions attending such reservation of exclusive right of burial.

X. The exclusive right of burial and of placing monuments and gravestones as aforesaid shall be considered to be the real estate of the giver, his heirs and assigns, and no body shall be buried or monument or gravestone placed in the land in which such rights have been granted except by consent of the owner thereof for the time being; but no such reservation shall give the right to bury the body of any person not entitled to be buried in consecrated ground; and the bishop of the diocese, and all persons acting under his authority, shall have the same right and powers to object to the placing and to procure the removal of any monumental inscription within the ground so reserved as he has to object to or procure the removal of any monumental inscription in any consecrated ground: Provided always, that the consent of the owner for the time being shall not be required for the burial of a deceased owner, or of a wife or widow of any deceased owner who has been buried or shall be about to be buried in such ground.

As to closing of reserved portions.

XI. Such reserved portion shall not be included in any Order in Council under the Burial Acts for closing the churchyard to which it belongs, but it may be closed under a separate Order founded on a special report that the ground is in such a state as to render any further interments therein prejudicial to the public.

Validity of marriages in rebuilt churches.

XII. [*Recital.*] All marriages, rites, and ceremonies heretofore or hereafter celebrated or performed in a consecrated

church or chapel which may have been rebuilt, repaired, or enlarged prior to such celebration or performance, and wherein such marriages, rites and ceremonies might have been legally solemnized or performed previously to such rebuilding, repair, or enlargement, shall be valid and effectual for all purposes, notwithstanding that upon such repair or enlargement the external walls of such church or chapel may not have remained entire, or the position of the communion table may have been altered, and notwithstanding that since such rebuilding, repair, or enlargement no reconsecration of such church or chapel may have taken place. Sect. 12.

XIII. This Act may be cited as "The Consecration of Churchyards Act, 1867." Short title.

DOCUMENTARY EVIDENCE ACT, 1868.

31 & 32 VICT. CHAP. 37.

An Act to amend the Law relating to Documentary Evidence in certain Cases. [25th June, 1868.]

[*Preamble.*]

[I.] This Act may be cited for all purposes as "The Documentary Evidence Act, 1868." Short title.

II. *Primâ facie* evidence of any proclamation, order, or regulation issued before or after the passing of this Act by Her Majesty, or by the Privy Council, also of any proclamation, Mode of proving certain documents.

By the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), s. 5, "a rule, order, or regulation made by the Local Government Board, shall be valid if it is made under the seal of the board, and signed by the president, or one of the *ex-officio* members of the board, and countersigned by a secretary or assistant secretary; and the production of such *primâ facie* evidence of any of the said rules, orders, or regulations as is required by the Documentary Evidence Act, 1868, with respect to the rules, orders, or regulations of the Poor Law Board, shall, until the contrary is shown, be a sufficient proof that any such rule, order or regulation of the Local Government Board was duly made." Sect. 1. Note.

This section is amended by the Documentary Evidence Act, 1882 (45 Vict. c. 9), s. 2, which makes documents printed under the superintendence of H. M. Stationery Office receivable in evidence. Sect. 2. Note.

Sect. 2.

order, or regulation issued before or after the passing of this Act by or under the authority of any such department of the Government or officer as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or any of modes herein-after mentioned; that is to say:

(1) By the production of a copy of the Gazette purporting to contain such proclamation, order, or regulation.

(2) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government printer, or, where the question arises in a court in any British colony or possession, of a copy purporting to be printed under the authority of the legislature of such British colony or possession.

(3) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the lords or others of the Privy Council, and, in the case of any proclamation, order, or regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

Act to be in force in colonies.

III. Subject to any law that may be from time to time made by the legislature of any British colony or possession, this Act shall be in force in every such colony and possession.

Punishment for forgery, or knowingly tendering forged documents in evidence.

IV. If any person commits any of the offences following; that is to say,—

(1) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government printer, or to be printed under the

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Sect. 4.

Note.

Extended by the Documentary Evidence Act, 1882 (45 Vict. c. 9), s. 3, to printing documents falsely purporting to be printed under the superintendence of H. M. Stationery Office.

authority of the legislature of any British colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or

(2) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order, or regulation;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude . . .

Interpretation.

V. The following words shall in this Act have the meaning herein-after assigned to them, unless there is something in the context repugnant to such construction; (that is to say),

"British colony and possession" shall for the purposes of this Act include the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of India, and all other Her Majesty's dominions.

"Legislature" shall signify any authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony or possession.

"Privy Council" shall include Her Majesty in Council and the lords and others of Her Majesty's Privy Council, or any of them, and any committee of the Privy Council that is not specially named in the schedule hereto.

"Government printer" shall mean and include the printer to Her Majesty, and any printer purporting to be the printer authorized to print the statutes, ordinances, acts of state, or other public Acts of the legislature of any British colony or possession, or otherwise to be the Government printer of such colony or possession.

"Gazette" shall include the *London Gazette*, the *Edinburgh Gazette*, and the *Dublin Gazette*, or any of such Gazettes.

Provisions of Act to be cumulative.

VI. The provisions of this Act shall be deemed to be in addition to, and not in derogation of, any powers of proving documents given by any existing statute, or existing at common law.

Schedule.

SCHEDULE.

Column 1. Name of Department or Officer.	Column 2. Names of Certifying Officers.
The Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the office of Lord High Admiral.	Any of the Commissioners for executing the office of Lord High Admiral, or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under-Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade, or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board.	Any Commissioner of the Poor Law Board, or any Secretary or Assistant Secretary of the said Board.

CONSECRATION OF CHURCHYARDS ACT, 1868.

31 & 32 VICT. CHAP. 47.

An Act to amend "The Consecration of Churchyards Act, 1867." [13th July, 1868.]

[Preamble recited 30 & 31 Vict. c. 133.]

Giver of land to be added to a churchyard may reserve the exclusive right of burial in a portion not exceeding one-sixth of the land so added.

[I.] In all cases where by the said Act the giver of any land to be added to a consecrated churchyard is empowered to reserve the exclusive right in perpetuity of burial, and of placing monuments and gravestones, in a part of the land so added not exceeding fifty square yards or one-sixth of the whole of the said land, in the manner and subject to the conditions and restrictions in the said Act mentioned, it shall be lawful for the giver of such land to reserve such exclusive right as aforesaid in a part of the land so added not exceeding one-sixth of the whole of the said land, subject to the restrictions and conditions and in the manner and for the purposes in the said Act mentioned; and the said Act shall be made as if in the ninth section thereof the words "not exceeding one-sixth part of the whole of the said

Amendment of 30 & 31 Vict. c. 133, s. 9.

land" were substituted for the words "not exceeding fifty square yards or one-sixth of the whole of the said land": Provided always, that all powers with regard to the placing or erection of monuments and gravestones in churchyards which before the passing of the said Act by law pertained to the bishop of the diocese, or to any person acting under his authority, shall remain in full force in respect to the land in which such exclusive right shall have been reserved as aforesaid.

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Reservation, as to land in which such right is reserved, of powers of bishop as to erection of monuments.

II. The provisions of the said Act shall apply to burial grounds attached or belonging to union houses in England and Wales.

Recited Act to apply to burial grounds of unions.

PARLIAMENTARY ELECTORS REGISTRATION ACT, 1868.

31 & 32 VICT. CHAP. 58.

An Act to amend the Law of Registration so far as relates to the Year One thousand eight hundred and sixty-eight, and for other purposes relating thereto. [16th July, 1868.]

[This Act casts certain duties upon overseers and relieving officers with regard to the preparation and revision of Parliamentary lists, and is for that reason included here.]

[*Preamble.*]

Preliminary.

[I.] "Principal Act" in this Act shall mean the Parliamentary Voters Registration Act, 1843, as amended by the County Voters Registration Act, 1865.

"Principal Act."

6 & 7 Vict. c. 18.

28 & 29 Vict. c. 36.

II. This Act shall be construed as one with the principal Act, and may be cited for all purposes as "The Parliamentary Electors Registration Act, 1868."

Construction and short title.

III. This Act shall not apply to Scotland or Ireland. . . .

Extent.

[Sects. 4—15 (being Part I.). Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

PART II.

AMENDMENT OF LAW AS TO REGISTRATION.

[Sect. 16. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

Amendment of the Representation of the People Act, 1867.

Sect. 17.

[Sect. 17. Repealed by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 17.]

Amendment of sect. 34 of 30 & 31 Vict. c. 102.

XVIII. Where a municipal borough forms part of a Parliamentary borough, the town clerk of such municipal borough shall be deemed to be the town clerk within the meaning of the thirty-fourth section of the Representation of the People Act, 1867, and the Acts relating to registration.

The local authority within the meaning of the said section, in boroughs where the town council is not the local authority, shall be the justices of the peace of the petty sessional division in which such borough is situate, or if such borough be situate in or comprise more than one petty sessional division, then the justices in general or quarter sessions having jurisdiction over such borough or the greater part thereof in area.

* * * * *

[Sect. 19. Repealed by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 17.]

Separate list of lodgers in boroughs.

XX. Notwithstanding anything contained in the thirtieth section of the Representation of the People Act, 1867, and the thirty-eighth section of the principal Act therein referred to, the names of the persons in any parish or township on whom a right to vote for a member or members to serve for any borough in respect of the occupation of lodgings is conferred by the Representation of the People Act, 1867, shall in the lists and register of voters for such boroughs, appear in a separate list.

Writs for elections for divisions of County Palatine of Durham, and for boroughs in the county.

XXI. Section fifty-seven of the Representation of the People Act, 1867, with respect to the County Palatine of Lancaster, and the issue, direction, and transmission of writs for the election of members to serve in Parliament for any division of the said county, or for any borough situate therein, shall be construed to extend to and include the County Palatine of Durham.

Miscellaneous Amendments.

Parts of one parish situate in different polling districts to be deemed separate parishes for registration purposes.

XXII. Where any parish in a county, city, or borough forms part of more than one polling district, the part of such parish situate in each polling district shall be deemed to be a separate parish for the purposes of the revision of voters and the lists and register of voters, and may be designated by some distinguishing addition in the list of voters for such part of a parish.

Recovery of expenses by town clerks and returning

XXIII. Whereas it is expedient to provide a summary remedy for the recovery by town clerks and returning officers of sums of money due to them in respect of expenses incurred in pursuance of the Registration Acts: Be it enacted, that if the overseers of any parish or township refuse or neglect to pay to the town clerk or returning officer of any borough out of the first

monies to be collected for the relief of the poor, any contribution or sum required to be paid to him by the fifty-fifth section of the principal Act or any Act amending the same, or any part of such contribution or sum, it shall be lawful for any justice of the peace for the county or place within which such parish or township is wholly or in part situate, upon information and complaint in writing, and after seven days' notice in writing, to be served upon such overseers or one of them, by warrant under his hand to levy such contribution or sum by distress and sale of the goods of the offender or offenders, together with all costs occasioned by the making of such complaint, service of such summons, and the obtaining and executing such warrant.

Sect. 23. ... officers, not paid by overseers.

[Sect. 24. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

XXV. Where a borough is situated partly in one circuit and partly in another, the judge of the circuit in which the greater part in extent of such borough is situate shall appoint the revising barrister for such borough.

Who to appoint revising barrister for borough situate in more than one circuit.

[Sect. 26. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

XXVII. A returning officer shall be annually appointed for the borough of Thirsk in the manner provided by the eleventh section of the Representation of the People Act, 1832, in the case of the boroughs mentioned in schedules (C.) and (D.) annexed to the said Act for which no persons are mentioned in such schedules as returning officers; and the person so appointed shall perform all the duties and be entitled to the remuneration which a returning officer is, by the Registration Acts, required to perform and is entitled to in boroughs where there is no town clerk.

Returning officer for borough of Thirsk.
2 & 3 Will. 4, c. 45, s. 11.

XXVIII. The overseers of every parish or township shall produce to the barrister appointed to revise the lists of voters of any county, whilst holding his court for revising the lists relating to their parish or township, all rates made for the relief of the

Production of poor rates by overseers to

Sect. 28 Note.

It is the duty of a relieving officer upon application from the overseers of any parish within his district, to produce to them the books in his possession containing the names of all persons who are disqualified for being inserted in the lists of Parliamentary or county electors or burgesses for that parish by reason of having received parochial relief (Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 12). It is his duty also to give such information to the clerk of the guardians as the latter may require for the purpose of supplying lists of the persons disqualified as Parliamentary or county electors or burgesses to any registered elector duly requiring the same; and he is entitled to reasonable remuneration for so doing. If he refuse or fail to afford such information he is liable to a penalty of 100*l.* or such less sum as a jury may think fit, recoverable at the suit of the party aggrieved (Registration Act, 1885 (48 & 49 Vict. c. 15), s. 16).

Sect. 28.

revising barristers for counties.

poor of their parish or township between the fifth day of January in the year then last past and the last day of July in the then present year; and any overseer wilfully refusing or neglecting to produce any such rates shall be deemed wilfully guilty of a breach of duty in the execution of the principal Act, and be punishable accordingly.

Power of revising barristers for counties to summon and examine past overseers or relieving officers.

XXIX. The barrister appointed to revise the lists of voters of any county, whilst holding his court for revising the lists relating to a parish or township, may require any overseer or overseers of a past year, or other person having the custody of any poor rate of the then current or any past year, or any relieving officer, to attend before him at any such court, and they shall attend accordingly and answer all such questions as may be put to them by the barrister; and any overseer or relieving officer wilfully refusing or neglecting to comply with the requirements authorized to be made by the revising barrister in pursuance of this section shall be punishable in the same manner in which an overseer wilfully guilty of a breach of duty in the execution of the principal Act is punishable under the principal Act.

Application of certain rating sections to counties.

2 & 3 Will. 4, c. 45.

XXX. The thirtieth section of the Representation of the People Act, 1832, and the seventy-fifth section of the principal Act, shall apply to all occupiers of premises capable of conferring the franchise for a county under the Representation of the People Act, 1867.

Expenses of overseers and relieving officers under this Act.

XXXI. All expenses properly incurred by an overseer in pursuance of this Act shall be deemed to be expenses properly incurred by him in carrying into effect the provisions of the principal Act, and any expense incurred by any relieving officer in attending a revising barrister in pursuance of this Act (the amount to be certified by the revising barrister) shall be deemed to be expenses properly incurred by him in the execution of his duty as relieving officer, and shall be defrayed accordingly.

Certificate of revising barrister to overseers for expenses under 6 & 7 Vict. c. 18, s. 57.

XXXII. The certificate given to the overseers by the revising barrister under section fifty-seven of the principal Act for the expenses incurred by them in carrying into effect the provisions of the Registration Acts shall be final and conclusive: Provided nevertheless, that such certificate shall be signed by the revising barrister in open court, and any ratepayer present shall have a right to inspect the account of expenses delivered in by the overseers, and to object to any item or items included therein, before such account is allowed by the revising barrister, who shall hear any such objection and make a decision respecting the same.

Sect. 31.

Note.

For payment of the expenses incurred by overseers in respect of registration of voters, see the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 57.

Sect. 33.

[Sect. 33. Repealed by the S. L. R. Act, 1893. Sect. 34. Repealed by the Ballot Act, 1872(35 & 36 Vict. c. 33), s. 32.]

Jurisdiction of officers as to registration and election to extend over areas of counties and boroughs as altered by any Act of this session.

XXXV. Where the boundary of any county or borough is altered in pursuance of any Act passed during the present session of Parliament, any clerk of the peace, town clerk, returning officer or other officer who would have jurisdiction in relation to the registration of voters, or in relation to the election of members to serve in Parliament, within such county or borough if it had remained unaltered, shall have jurisdiction over the area constituting such county or borough as altered by the said Act.

[Sect. 36. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

Copies of registers to be transmitted annually to Secretary of State.

XXXVII. The clerk of the peace of every county, and the town clerk or other officer having charge of the register of every city or borough respectively, shall in each and every year within twenty-one days after the first day of February transmit to one of Her Majesty's principal Secretaries of State a printed copy of the register of voters then in force for such county, city, or borough.

TELEGRAPH ACT, 1868.

31 & 32 VICT. CHAP. 110.

An Act to enable Her Majesty's Postmaster-General to acquire, work, and maintain Electric Telegraphs.

[31st July, 1868.]

[So much only of this Act is here printed as has reference to the assessment and rating of property acquired by the Postmaster-General under the Act.]

* * * * *

Power to Postmaster-General to purchase undertakings of telegraph companies, with consent of Treasury and approval of Parliament.

IV. It shall be lawful for Her Majesty's Postmaster-General, and he is hereby authorized, with the consent of the Treasury, from time to time, out of any monies which may be from time to time appropriated by Act of Parliament and put at his disposal for that purpose, to purchase for the purposes of this Act the whole, or such parts as he shall think fit, of the undertaking of any company; and any undertaking, and all other property purchased under the powers of this Act, shall be vested in and held by Her Majesty's Postmaster-General, in his corporate capacity, and his successors: Provided always, that no such purchase be made, and that no agreement other than the agreements confirmed by this Act for any such purchase be binding, unless the said agreement, accompanied by a minute from the Treasury, in which the grounds of the agreement shall be set forth, shall have lain for one month on the table of both Houses of Parliament without disapproval.

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Sect. 22.

Assessments of property taken by Postmaster-General to rates.

XXII. All land, property, and undertakings purchased or acquired by the Postmaster-General under this Act shall be assessable and rateable in respect to local, municipal, and parochial rates, assessments, and charges at sums not exceeding the rateable value at which such land, property, and undertakings were properly assessed or assessable at the time of such purchase or acquisition.

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POOR LAW AMENDMENT ACT, 1868.

31 & 32 VICT. CHAP. 122.

An Act to make further Amendments in the Laws for the Relief of the Poor in England and Wales.* [31st July, 1868.]

[*Preamble.*]

Regulations as to general orders of the Poor Law Board.

[I.] The Poor Law Board shall cause a copy of every general rule, order, or regulation issued by them to be laid before both

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 22.

Note.

Notwithstanding this section, no duty is cast upon the Postmaster-General either by this section or by the Telegraph Act, 1869 (32 & 33 Vict. c. 73), to pay the rates imposed by these Acts, and there is no remedy by *mandamus* to compel him to pay the rates fixed by an assessment committee (*Reg.* or *Marylebone Vestry* v. *Postmaster-General*, 28 L. T. (N. S.) 337; 21 W. R. 459; 37 J. P. 196).

The Postmaster-General purchased in 1870 a certain house, part of the undertaking of the Telegraph Company, which was held by the company under a lease for twenty-one years. Part of the house was subject to an under-lease granted by the company for the rest of the term less one day, the company undertaking to pay all parochial rates. The Postmaster-General used and occupied for telegraphic purposes so much of the house as was not subject to the under-lease until 1878, when he demised it to other persons, and thenceforth no part of the house was used for telegraph purposes: it was held that notwithstanding the user of the house for such purposes had altogether ceased, the provisions of this section applied, and that the occupier of the premises comprised in the under-lease was not liable to be assessed in any sum exceeding the rateable value at which the premises could properly have been assessed at the time of the purchase by the Postmaster-General (*St. Gabriel, Fenchurch*, v. *Williams*, 16 Q. B. D. 649; 55 L. J. M. C. 14; 54 L. T. 270; 34 W. R. 256; 50 J. P. 533).

Sect. 1.

Note.

This section replaces sect. 17 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), which is repealed by the S. L. R. Act, 1874.

As to orders forming districts for audit purposes, see the Poor

Houses of Parliament as soon as practicable after its publication, but no order of the said board by which a district of unions or parishes and unions shall have been or shall be formed shall be deemed to be a general order within the meaning of the Poor Law Board Act, 1847.

Sect. 1.

10 & 11 Vict. c. 109.

II. The said board shall not be required to send copies of any orders issued by them to the clerks to the justices of the petty sessional divisions, except such as relate to the relief of the poor, the government and management of workhouses and their inmates, and the guidance and regulation of guardians and their officers.

Sending of copies of orders to clerks of justices only required in certain cases.

[Sect. 3. *Repeal of exception in sect.* 2 *of* 30 *&* 31 *Vict. c.* 106: Repealed by the S. L. R. Act, 1893.]

IV. The Poor Law Board may exercise the powers contained in the thirty-second section of the Poor Law Amendment Act, 1834, with respect to any union of parishes formed under the eighty-third chapter of the statute of the twenty-second year of King George the Third, and with respect to any union governed by a local Act of Parliament, where the relief of the poor is not wholly administered by one board of guardians, without such concurrence of a majority of not less than two-thirds of the guardians of such union as is required in the said section; and every single parish in which the provisions of the said statute of George the Third shall have been adopted may be dealt with in like manner as any parish in which they shall not have been adopted; . . .

Consent of guardians not required in certain cases for exercise of powers of Poor Law Board under 4 & 5 Will. 4, c. 76, s. 32.

22 Geo. 3, c. 83.

V. All superintendent registrars and registrars of births, deaths and marriages, and registrars of marriages, in temporary districts formed under the provisions of the Births and Deaths Registration Act, 1836, shall be entitled to continue in office

Registrars of births, &c. in temporary districts.

6 & 7 Will. 4, c. 86.

Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32; for school purposes, *ib.*, s. 40; for asylum purposes in the metropolis, see Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 6.

Sect. 1.

Note.

For meaning of "general order," see the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 15.

This section amends sect. 18 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), by which all orders, before coming into force in any union or parish, were to be sent to, *inter alios*, the clerks of the justices of the division in which such union or parish was situate.

Sect. 2.

Note.

The latter part of this section is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73).

Sect. 4.

Note.

The 22 Geo. 3. c. 83, generally known as Gilbert's Act, is repealed by the S. L. R. Act, 1871.

Sect. 5.

in the event of such temporary districts being dissolved, and the parishes, townships, and places contained therein being formed into one and the same union.

Poor Law Board may unite small parishes for election of guardians.

VI. The said board may, by order under seal, add any parish in a union, the population of which parish, according to the census last declared, shall not exceed three hundred, the annual rateable value whereof shall not exceed the average rateable value of the parishes in the same union according to the valuation lists in force for the time being, to some adjoining parish in the same union for the purpose of the election of guardians; and the persons qualified to elect such guardians in either parish shall be qualified to vote at such election for the parishes so united.

Poor Law Board may appoint officers when guardians make default.

VII. In case the board of guardians fail for twenty-eight days after receipt of a requisition of the Poor Law Board in that behalf to appoint, either originally or on a vacancy, any officer whom they shall be lawfully required to appoint, the Poor Law Board may, at any time after the expiration of the said term of twenty-eight days, if they think fit, by order under their seal, appoint a fit person to be such officer, and determine the salary or remuneration to be paid to him by such guardians; and the person so appointed shall recover such salary or remuneration by action in a county or other court of law against such guardians, and shall have all the same powers, rights, and privileges, and shall discharge all the same duties, and incur the same responsibilities, as if the appointment had been duly made by the said guardians.

Works and furniture for workhouses. 4 & 5 Will. 4, c. 76.

VIII. The power conferred upon the Poor Law Board by the twenty-fifth section of the Poor Law Amendment Act, 1834, as

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Sect. 6.

Note.

Similar powers to those conferred on the Local Government Board by this section are conferred on county councils by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60 (1).

Sect. 7.

Note.

Although the Local Government Board may appoint an officer under this section on default by the guardians, it is no answer to an application by the Local Government Board for a *mandamus* to compel a board of guardians to appoint an officer, when such appointment is made obligatory by statute, as in the case of a vaccination officer under the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 5, for the guardians to allege that the proper course is for the Local Government Board to appoint such officer themselves (*Reg.* v. *Leicester Guardians*, [1899] 2 Q. B. 632.

For a similar provision with respect to appointment of officers in the metropolis, see the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 80.

Sect. 8.

Note.

The enactments referred to in this section empower the Local Government Board to order, without consent of the guardians or ratepayers, workhouses to be altered or enlarged.

extended by the eighth section of the Poor Law Amendment Act, 1866, shall apply to the providing of proper drainage, sewers, ventilation, fixtures, furniture, surgical and medical appliances, and other conveniences at any workhouse.

Sect. 8.

29 & 30 Vict. c. 113.

IX. All the provisions contained in the Poor Law Amendment Act, 1842, in respect of the election, qualification, resignation, and the acts of guardians of a union, and in respect of the supply of vacancies in the board of guardians, shall apply to the members of the district boards or board formed or to be formed under the authority of the Metropolitan Poor Act, 1867, whether nominated or elective, or of this Act, and to the persons nominated as guardians by the Poor Law Board under the said Act of 1867; and so much of the Metropolitan Poor Act, 1867, as requires persons, other than justices of the peace, nominated by the Poor Law Board as managers or guardians, to be resident within the district, union, or parish respectively for which they may be nominated, shall be repealed.

Provision for election, &c. of members of district boards and managers in metropolis.

5 & 6 Vict. c. 57.

30 & 31 Vict. c. 6.

X. Where the consent of the guardians of any union or parish is required to be given to the formation of a school district, the consent of the major part of the guardians assembled at one of their ordinary meetings, after notice in writing previously sent to every member of the board not less than two weeks previously, specifying the proposal for such consent, shall be sufficient.

Consent of majority of guardians present at meeting after notice sufficient for formation of school district.

XI. [*Repeal of* 13 *&* 14 *Vict. c.* 11.] All the expenses and charges which, according to the provisions of the Poor Law Amendment Act, 1844, would be chargeable upon the common fund of any district formed or to be formed under that Act or under this Act, shall be borne by the several unions or parishes comprised in the district according to the annual rateable value of the property therein comprised, to be determined according

Basis for contribution by unions and parishes to expenses and charges chargeable on common fund of districts.

7 & 8 Vict. c. 101.

Sect. 9.

Note.

The provisions of the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 75), mentioned in this section were contained in sects. 8—17 of that Act, but several of such provisions are repealed by the Local Government Act, 1894.

Managers nominated under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), were required to be resident in the district by sect. 11 of that Act. Guardians were nominated under sect. 79 of that Act, which section is now repealed by the Local Government Act, 1894.

Sect. 10.

Note.

The provisions of this section are apparently superseded by the very similar provisions of sect. 12 of the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), which enables guardians to express their consent by resolution.

For the formation of school districts, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 40, and the Poor Law (Schools) Act, 1848 (11 & 12 Vict. c. 82), s. 1.

Sect. 11.

to the valuation lists in force in such unions, and according to the latest poor rate for the time being for the parishes not in union, or, so far as respects any district wholly or partially within the metropolis, as defined by the Metropolitan Poor Act, 1867, on such other basis as the Poor Law Board shall from time to time direct.

30 & 31 Vict. c. 6.

Provision for severance of a parish from a union in a school district, or addition of a parish thereto.

XII. In the case of a parish added to or taken from any union comprised in a school district, the Poor Law Board shall ascertain the proportionate value of the property and amount of obligations of such parish, and of every other parish or union affected by the change, and shall fix the amount to be received or paid or secured to be paid by every such parish or union, or by the district, as the case may require.

Guardians may send idiots to asylums for idiots, or idiotic or insane paupers to other workhouses, and pay expenses of removal, maintenance, and burial.

XIII. The guardians of any union or parish may, with the consent of the Poor Law Board, send an idiotic pauper to an asylum or establishment for the reception and relief of idiots maintained at the charge of the county rate or by public subscription, and they may with the like consent send any idiotic, imbecile, or insane pauper who may lawfully be detained in a workhouse to the workhouse of any other union or parish, with the consent of the guardians of such last-mentioned union or parish, and pay the cost of the maintenance, clothing, and lodging of such pauper in the asylum, establishment, or workhouse, as well as the cost of his conveyance thereto or his removal therefrom, and the expenses of his burial, when necessary.

Pauper lunatics.

30 & 31 Vict. c. 106, s. 23.

XIV. The provisions contained in the twenty-third clause of the Poor Law Amendment Act, 1867, shall apply to pauper lunatics sent to an asylum before the passing of that Act as well as since.

Sect. 12.

Note.

The power of adding a parish to or taking a parish from any union is conferred on the Local Government Board by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32; and of adding a parish or union to, or taking a parish or union from a school district, by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 43, as amended by sect. 16 (now repealed) of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106).

Sect. 13.

Note.

The detention of insane paupers in workhouses is now regulated by the Lunacy Act, 1890 (53 & 54 Vict. c. 5), ss. 20—26; that Act repealing sect. 22 of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), except as to persons suffering from *delirium tremens* or contagious diseases.

Guardians have a general power of burying paupers under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 31.

Sect. 15.

Provisions of 30 & 31 Vict. c. 106, s. 20, extended.

XV. The provisions contained in the twentieth section of the Poor Law Amendment Act, 1867, shall extend to the case of a parish which shall have been or shall be added to or separated from a union, and to any officer who by reason of such addition or separation shall have been or shall be deprived of his office or employment.

A separate creed register to be kept in every workhouse and pauper school.

XVI. The officer for the time being acting as the master of a workhouse, or as the master or superintendent of a district or other pauper school, shall keep a register of the religious creed of the pauper inmates of such workhouse or school, separate from all other registers, in such form and with such particulars as shall be prescribed by the Poor Law Board by an order under their seal, and shall, as regards every inmate of such workhouse or school at the date to be fixed by such order, and subsequently upon the admission of every inmate therein, make due inquiry into the religious creed of such inmate, and enter such religious creed in such register.

Religious creed of children, how to be entered in register.

XVII. In regard to any child in the workhouse or school under the age of twelve years, whether either of its parents be in the workhouse or not, or whether it be an orphan or deserted child, the master or superintendent shall enter in such register, as the religious creed of such child, the religious creed of the father, if the master or superintendent know or can ascertain the same by reasonable inquiry, or, if the same cannot be so ascertained, the creed of the mother of such child, if the same be known to the said master or superintendent, or can be by him in like manner ascertained; and the creed of an illegitimate child under the said age shall be deemed to be that of its mother, when that can be ascertained.

Questions as to correctness of register.

XVIII. If any question shall arise as to the correctness of any entry in such register, the Poor Law Board may, if they think fit, inquire into the circumstances of the case, and determine such question by directing such entry to remain or to be amended, according to their judgment.

Creed register to be open to inspection of ministers and ratepayers.

XIX. Every minister of any denomination officiating in the church, chapel, or other registered place of religious worship of

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Sect. 15. Note.

The 30 & 31 Vict. c. 106, s. 20, which deals with compensation to officers of parishes or unions on the dissolution of a union is now in part repealed by the Poor Law Officers Superannuation Act, 1895 (59 & 60 Vict. c. 50).

Sect. 16. Note.

It is specially provided by the Poor Law Act, 1889 (52 & 53 Vict. c. 5), s. 1 (6), which gives the guardians control, until the age of sixteen or eighteen according to sex, over deserted children who are maintained by the guardians, that nothing therein shall affect any enactments in sects. 16—23 of this Act.

Sect. 19.

such denomination which shall be nearest to any workhouse or school, or any ratepayer of any parish in the union, shall be allowed to inspect the register which contains the entry of the religious creed of the inmates at any time of any day, except Sunday, between the hours of ten before noon and four after noon.

Minister may visit inmates registered as of his religious creed.

XX. Such minister may, in accordance with such regulations as the said board shall approve of or by their order prescribe, visit and instruct any inmate of such workhouse or school entered in such register as belonging to the same religious creed as such minister belongs to, unless such inmate, being above the age of fourteen, and after having been visited at least once by such minister, shall object to be instructed by him.

Where no religious service according to his own creed is provided in the workhouse, any inmate may, subject to regulations, go to his own proper place of worship.

XXI. Every inmate for whom a religious service according to his own creed shall not be provided in the workhouse shall be permitted, subject to regulations to be approved of or ordered by the Poor Law Board, to attend, at such times as the said board shall allow, some place of worship of his own denomination within a convenient distance of the said workhouse, if there be such in the opinion of the board: Provided, that the guardians may, for abuse of such permission previously granted, or on some other special ground, refuse permission to any particular inmate, and shall in such case cause an entry of such refusal and the grounds thereof to be made in their minutes.

No child in any workhouse or school visited by a minister of its own religion shall be required to attend other religious service unless, being above twelve years of age, he shall desire to do so.

XXII. No child, being an inmate of a workhouse or such school as aforesaid, who shall be regularly visited by a minister of his own religious creed for the purpose of religious instruction, shall, if the parents or surviving parent of such child, or in the case of orphans or deserted children if such minister make request in writing to that effect, be instructed in any other religious creed, or be required or permitted to attend the service of any other religious creed, than that entered in such register as aforesaid, except any child above the age of twelve years who shall desire to receive instruction in some other creed, or to attend the service of any other religious creed, and who shall be considered by the Poor Law Board to be competent to exercise a judgment upon the subject.

Sect. 20.

Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 19, no inmate of a workhouse need attend any religious service contrary to his principles, and no child is to be educated in any religious creed to which its parent or god-parent may object.

Sect. 22.

Note.

See note to sect. 20, *supra*.

Sect. 22.

Illegitimate and deserted and orphan children.

25 & 26 Vict. c. 43.

29 & 30 Vict. c. 113, s. 14.

XXIII. The Poor Law (Certified Schools) Act, 1862, and section fourteen of the Poor Law Amendment Act of 1866, shall apply to illegitimate as well as legitimate children; and with regard to illegitimate children the consent of the mother, if she has the care, custody, or possession of the child, shall be sufficient for the purposes of those Acts; and in case of a deserted child or an orphan child on behalf of whom no relative, next of kin, step-parent or god-parent shall make application, the Poor Law Board may exercise the power conferred upon them by section fourteen of the said Act of 1866, upon being satisfied that there is reasonable ground for their doing so.

[Sect. 24. *Poor Law Board to appoint auditors:* Repealed by the District Auditors Act, 1879 (42 & 43 Vict. c. 6), with savings as to auditors already appointed thereunder.]

[Sect. 25. *Existing auditors may be superannuated under* 22 *Vict.* c. 26: Repealed by the District Auditors Act, 1879 (42 & 43 Vict. c. 6).]

Guardians to appoint registrars for temporary districts under 6 & 7 Will. 4, c. 86, s. 10.

XXVI. So much of the Births and Deaths Registration Act, 1836, as provides that the Poor Law Commissioners shall appoint a registrar to the temporary districts therein referred to shall be repealed; and the board of guardians acting therein shall henceforth appoint the registrars for such districts.

Provision for incorporation of certain extra-parochial places and accretions from the sea in adjoining parishes for civil purposes.

XXVII. From the twenty-fifth day of December next every place which was or is reputed to be extra-parochial, whether entered by name in the report upon the census for the year one thousand eight hundred and fifty-one or not, for which an overseer has not been then appointed, or for which no overseer shall be then acting, or which has not been then annexed to and incorporated with an adjoining parish, shall for all civil parochial purposes be annexed to and incorporated with the next adjoining parish with which it has the longest common boundary, and in case there shall be two or more parishes with

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Sect. 23.

Note.

The provisions mentioned in this section refer to the education of children under the control of boards of guardians.

Sect. 27.

Note.

By the Extra-parochial Places Act, 1857 (20 Vict. c. 19), power was given to justices to appoint overseers for extra-parochial places.

The portion of a flying pier below low-water mark is neither an accretion from the sea within the meaning of this section, nor an extra-parochial place within the meaning of 20 Vict. c. 19: and the portion of the pier below low-water mark is not rateable to the poor rate (*Blackpool Pier Co.* v. *Fylde Union*, 46 L. J. M. C. 189; 36 L. T. (N. S.) 251; 41 J. P. 344).

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which it shall have boundaries of equal extent, then with that parish which now contains the lowest amount of rateable value; and every accretion from the sea, whether natural or artificial, and the part of the sea-shore to the low-water mark, and the bank of every river to the middle of the stream, which on the twenty-fifth day of December next shall not be included within the boundaries of or annexed to and incorporated with any parish, shall for the same purposes be annexed to and incorporated with the parish to which such accretion, part, or bank adjoins, in proportion to the extent of the common boundary.

Provisions of 11 & 12 Vict. c. 110, s. 7, extended to guardians of parishes not in unions.

XXVIII. The provisions of the seventh section of the Poor Law Amendment Act, 1848, empowering guardians of unions to cause valuations to be made upon application as therein set forth, shall apply to the guardians of a parish not comprised in any union.

Power for guardians of unions mutually to bear the costs of several appeals involving the same common principle.

XXIX. Where an appeal is brought against the poor rate of a parish in a union, and may appear to involve a principle in which some neighbouring parish has a common interest, it shall be lawful for the guardians of the unions comprising such parishes to enter into an agreement mutually to bear the costs which may be properly incurred in and about the trial of such appeals on the part of the several respondents, as well as the costs of the appellants, if any, which may be awarded against the respondents, in such proportions as shall be fixed and determined with reference to the amount of interest of the several unions in the question, or otherwise as shall appear just; and the said agreement shall continue binding upon the several boards of guardians and their respective successors in succession until the several appeals shall have been finally determined.

Fair copies of approved valuation lists to be given to overseers, instead of originals.

XXX. When the assessment committee in any union shall have finally approved of any valuation list, whether original, substitutional, or supplemental, they shall cause the total of the entries in the columns for the gross estimated value and the rateable value to be ascertained and entered at the foot of

Sect. 28. Note.

11 & 12 Vict. c. 110, s. 7, enables guardians to cause a valuation to be made of part of a parish; they are empowered to cause a valuation to be made of a whole union or of any parish in it by the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 3.

Sect. 29. Note.

A similar power was conferred on overseers of parishes by the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 11.

Sect. 30. Note.

Repealed as regards the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

Sect. 30.

the same, and shall retain such list for the use of the guardians, to be dealt with in the manner provided by the thirty-first section of the Union Assessment Committee Act, 1862, and shall deliver a fair copy of the same to the overseers signed by the three members of the committee who approved of the same; and such copy shall be countersigned by the clerk of the committee, and shall be preserved by the overseers, and dealt with by them in all respects as the lists made out by them would have been dealt with according to the law now in force, and it shall not be necessary for the said committee to cause any other copy to be made.

25 & 26 Vict. c. 103.

Certified copy of valuation lists rendered available, where original or copy sent to overseers is lost.

XXXI. Where any valuation list heretofore approved, or the copy hereafter to be made, shall be lost, injured, or destroyed, the overseers of the parish to which it relates may apply to the clerk of the guardians for a copy of the same; and the clerk, upon payment of a reasonable compensation, not exceeding three shillings for one hundred separate rateable hereditaments, shall give such copy, and certify the same to be a true copy of the list deposited with the said guardians; and such certified copy shall be thenceforth available as the original.

Guardians may appoint a paid valuer to assist the assessment committee.

XXXII. The guardians may, upon the application of the assessment committee, after notice sent in the manner required by the Union Assessment Committee Act, 1862, appoint some competent person to assist the committee in the valuation of the rateable hereditaments of the union for such period as they shall see fit, at a salary or other settled remuneration to be paid out of the common fund.

25 & 26 Vict. c. 103.

Order may be made in petty sessions upon

XXXIII. When a married woman requires relief without her husband, the guardians of the union or parish, or the overseers

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Sect. 31.

Repealed as regards the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

Note.

Sect. 32.

Repealed as regards the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

Note.

Sect. 33.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 19, proceedings may be taken against persons who desert their wives and children whereby they become chargeable; and that section also provided that the justices who hear the complaint against the husband under this section may be other than those who summoned him to appear before them, provided they act for the same petty sessional division.

Note.

It is not a condition precedent to the power of justices under this section to order the husband to pay for the maintenance of his pauper wife, that the guardians should have fixed the sum for her relief. Therefore, although the guardians have not fixed any sum for her future relief, but have given her a small weekly sum,

Sect. 33.

a husband to maintain his wife.

of the parish, as the case may be, to which she becomes chargeable, may apply to the justices having jurisdiction in such union or parish in petty sessions assembled, and thereupon such justices may summon such husband to appear before them to show cause why an order should not be made upon him to maintain his wife; and upon his appearance, or, in the event of his not appearing, upon proof of due service of such summons upon him, such justices may, after hearing such wife upon

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Sect. 33.

Note.

the justices may order the husband to pay for her maintenance such sum as under all circumstances is proper, although it may exceed the amount of the relief previously given to her by the guardians (*Dinning* v. *South Shields Guardians*, 13 Q. B. D. 25; 53 L. J. M. C. 90; 50 L. T. 446; 48 J. P. 708).

A wife left her husband a month after marriage for using obscene and abusive language to her. She afterwards offered to return to him on conditions which he did not accept. Four years afterwards the guardians applied under this section, for an order of maintenance against him. *Held* that the justices should not have granted the order without first deciding whether her refusal to return was reasonable (*Fordham* v. *Young*, 53 J. P. 133). But if the justices find that a wife's refusal to return to her husband is reasonable, they may rightly make an order against the husband for maintenance (*Thomas* v. *Alsop*, L. R. 5 Q. B. 151; 39 L. J. M. C. 43; 21 L. T. (N.S.) 715; 18 W. R. 454).

Proof of marriage.

In proceedings under this section actual proof of marriage is not required; cohabitation is good *primâ facie* evidence of marriage (*Stargot* v. *Westbury*, 37 J. P. 293).

So, where a man being summoned under 43 Eliz. c. 2, s. 7, for the maintenance of his child of eight, swore that he was not married to the child's mother, but it was proved that he had treated and called her his wife, the justices disbelieved him, and held that although there was no direct evidence of marriage, the reputation was sufficient; on appeal to the Queen's Bench, it was held that the justices were right (*Elliot* v. *Totnes Union*, 57 J. P. 151).

Adulterous wife.

This section does not impose any liability on a husband to maintain his wife who has left him and committed adultery, and whose adultery has not been condoned (*Culley* v. *Charman*, 7 Q. B. D. 89; 50 L. J. M. C. 111; 45 L. T. 28; 29 W. R. 803; 45 J. P. 768).

Upon an application by the guardians for an order against a husband under this section, it was proved that the wife married a former husband in 1840, who left her in 1845. It was reported that he was dead, but the wife had no corroboration of his death. She married her present husband in 1849, and her former husband had not since been heard of. *Held* that the justices were right in assuming that the second husband was the woman's lawful husband, and in making an order upon him for her maintenance (*Deakin* v. *Deakin*, 33 J. P. 805). But if a woman marries a second man while her first husband is alive, although under circumstances which would excuse her from a charge of bigamy, the first husband cannot be made liable to maintain her if she continues to live with the second man while knowing that her first husband is alive (*Mitchell* v. *Torrington Union*, 76 L. T. 724; 61 J. P. 598).

oath, or receiving such other evidence as they may deem sufficient, make an order upon him to pay such sum, weekly or otherwise, towards the cost of the relief of the wife, as, after consideration of all the circumstances of the case, shall appear to them to be proper, and shall determine in such order how and to whom the payments shall from time to time be made; which order shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the Summary Jurisdiction Act, 1848, for the enforcing of orders of justices requiring the payment of a sum of money: Provided, that such order may be at any future time revoked by the justices in petty sessions assembled, if they see sufficient cause for so doing.

Sect. 33.

Enforcement of order.
11 & 12 Vict. c. 43.

XXXIV. Where any poor person shall have acquired an exemption from removal in any parish or union, and the parish wherein that exemption shall have been wholly or partly acquired shall have been or shall be added to or separated from a union, such poor person shall continue to have the same exemption from removal as he would have been entitled to if no such addition or separation had taken place.

Irremovability of poor persons not to be affected by addition of parish to union, or separation therefrom.

XXXV. *The time limited for the repayment of money borrowed under the Poor Law Amendment Act*, 1834, *and the subsequent Acts extending or amending the same, and the Metropolitan Poor Act*, 1867, *shall be extended from twenty to thirty years; and* the term "promoters of the undertaking" in section fifty-two of the last-mentioned Act shall be deemed to have included managers and guardians desirous of purchasing lands for any of the purposes of the Poor Law Acts as therein defined.

Extension of time for repayment of loans.
4 & 5 Will. 4, c. 76.
30 & 31 Vict. c. 6, &c.

XXXVI. So much of the Poor Relief Act, 1601, and the Poor Relief Act, 1819, as enables orders of maintenance to be

Repeal of 43 Eliz. c. 2, and 59 Geo. 3, c. 12, in part.

Sect. 34.

Exemption from removal from a union may be acquired by residence for a year in any part of the union (Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 1; Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 1; Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 8).

Note.

Sect. 35.

The words in italics are repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), and the time for repayment of loans fixed by sect. 1 (1) of that Act at such period not exceeding sixty years as the guardians or managers, with the sanction of the Local Government Board, may determine.

Note.

Sect. 36.

The sections, portions of which are repealed by this section, are 43 Eliz. c. 2, s. 7, and 59 Geo. 3, c. 12, s. 26. The repealing words printed in italics are repealed by the S. L. R. Act, 1893.

Note

Before the passing of this Act, it was in the nature of a criminal offence to disobey an order of justices to maintain an indigent relative, and a bankrupt who disobeyed such order, and was imprisoned in default of distress, was held not entitled to his

Sect. 36.

made by the justices having jurisdiction in the place where the persons upon whom they are to be made dwell, and as prescribes the penalty for disobedience, *and section seventy-eight of the Poor Law Amendment Act*, 1834, shall, in respect of any order to be made hereafter, be repealed; and such orders shall be made by the justices in petty sessions assembled at their usual place of meeting having jurisdiction in the union or parish to which the poor person in whose behalf the same shall be sought to be made shall be chargeable, and shall be enforced in the manner prescribed by the Summary Jurisdiction Act, 1848, for enforcing orders of justices.

4 & 5 Will. 4, c. 76, s. 78.

Jurisdiction of justices in petty sessions to make and enforce orders of maintenance.

11 & 12 Vict. c. 43.

[Sect. 37. *Parents neglecting their children liable to punishment:* Repealed by 52 & 53 Vict. c. 44, s. 18, which is now also repealed and replaced by the Prevention of Cruelty to Children Act, 1894 (57 & 58 Vict. c. 41).]

Provision for rating of new houses or buildings.

XXXVIII. When any person shall occupy any new house or other building in any parish where the poor rate is not made under the provisions of a local Act, which house or building was incomplete, or not fit for occupation, or was not entered as such in the valuation list in force in the parish at the time when the current rate for the time being was made, the overseers may enter such house or building with the name of the occupier thereof and the date of the entry in the rate-book, and require the occupier to pay such amount as according to

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Sect. 36. Note.

discharge by virtue of his having obtained a protection order under sect. 112 of the Bankruptcy Act, 1849 (*Bancroft* v. *Mitchell*, L. R. 2 Q. B. 549; 8 B. & S. 558; 36 L. J. Q. B. 257; 16 L. T. (N. S.) 558; 31 J. P. 693). Since, however, the repeal by this section of the penalties imposed by 43 Eliz. c. 2, s. 7, for non-compliance with a maintenance order, neglect to make the payments ordered is no longer a criminal offence; and an order of justices for the payments due under a maintenance order cannot be enforced by imprisonment in default of distress, unless it be proved that the person in default has since the date of the order for payment had the means to pay the sum in respect of which he has made default (*In re Gamble*, [1899] 1 Q. B. 305; 68 L. J. Q. B. 195).

On a summons under 43 Eliz. c. 2, s. 7, and this section, against a father for maintenance of his children, the neglect to maintain is an offence of a continuing nature, and the limitation of time in 11 & 12 Vict. c. 43, s. 11, has no application. (*Ulverstone Union* v. *Park*, 53 J. P. 629.)

Sect. 38. Note.

Repealed so far as relates to the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

New houses ready for occupation, although not yet occupied, ought to be inserted in the valuation list (*Reg.* v. *Malden*, L. R. 4 Q. B. 336; 38 L. J. M. C. 125; 33 J. P. 645). This section prevents occupiers of buildings which were incomplete or not ready for occupation at the time when the last valuation list or supplemental list was made, from escaping payment of rates pending the proceedings connected with the making of a supplemental list under 25 & 26 Vict. c. 103, s. 25.

Sect. 38.

their judgment shall be the proper sum, having due regard to the rateable value of such house or building, and the time which shall have elapsed from the making of the current rate to the date of such entry, and the person so charged shall be considered as actually rated from such date, and shall be liable to pay the sum assessed in like manner, and subject to the like penalty of distress, and with the like power of appeal, as if he had been assessed for the same when the rate was made: Provided, that when the said overseers shall so enter the said house or building in the rate-book they shall forward to the assessment committee of the union comprising such parish, if any such there be, a supplemental list with reference to such house or building, and the same shall be dealt with in all respects, and with the like incidents and consequences, as a supplemental list made by the overseers under section twenty-five of the Union Assessment Committee Act, 1862.

25 & 26 Vict. c. 103.

Demand of poor rate, or summons for non-payment, may be made on the premises, where occupier is not resident in parish.

XXXIX. When a poor rate shall be made and assessed upon any land or premises, and the occupier thereof is not living on such land or premises nor in the parish for which the rate shall be made, or the owner, if assessed for such rate in the place of the occupier, is not living in such parish, a demand of the rate in writing delivered to the person having the custody of the land or premises, or if no such person can be found, then affixed upon some conspicuous part of the land or premises, shall be deemed a sufficient demand to justify proceedings for the non-payment of such rate; and where the residence or place of abode of the person assessed is not known to the overseers, and cannot be ascertained upon inquiry at the said land or premises, the summons for the non-payment of the rate may be served in like manner.

Service of demand of rate from a corporation or a company, and of summons for non-payment.

XL. When a poor rate is assessed upon any corporation aggregate, joint stock or other company, or any conservators or other public trustees, a demand for payment, either made by letter sent through the post addressed to the clerk or secretary or other principal officer of the corporation, company, conservators, or trustees at the office of such corporation, company, conservators, or trustees, or made personally upon such clerk, secretary, or officer at such office, shall be deemed a sufficient demand, and a summons for the non-payment of such rate may be served in like manner.

[Sect. 41. *Payments for bastard children:* Repealed by the Bastardy Laws Amendment Act, 1872 (35 & 36 Vict. c. 65).]

Sect. 39.

Note.

The general rule is that the rates must be demanded of the party liable to pay (*Rex* v. *Benn and Church*, 6 T. R. 198), and the demand must be in writing (Gen. Ord., June 14th, 1875, art. 1).

Sect. 42.

Poor deaf and dumb or blind children may be sent to schools not certified under 25 & 26 Vict. c. 43.

XLII. The guardians of any union or parish may, with the approval of the Poor Law Board, send any poor deaf and dumb or blind child to any school fitted for the reception of such child, though such school shall not have been certified under the provisions of the Poor Law (Certified Schools) Act, 1862.

[Sect. 43. *Certain lunatics may be received in workhouses from county asylums:* Repealed by the Lunacy Act, 1890 (53 Vict. c. 5), and similar provision made by sect. 25 of that Act.]

[Sect. 44. *Repeal of penalties on parish officers supplying goods in unions:* Repealed by the S. L. R. Act, 1893.]

Interpretation and construction.

4 & 5 Will. 4, c. 76.

XLV. The words used in this Act shall be construed in the like manner as in the Poor Law Amendment Act, 1834, and subsequent Acts amending and extending the same; and the provisions contained therein and in such subsequent Acts, and not repealed, shall, so far as they shall be consistent herewith, be extended to this Act.

Short title.

XLVI. This Act may be cited and described for all purposes as "The Poor Law Amendment Act, 1868."

SUNDAY AND RAGGED SCHOOLS (EXEMPTION FROM RATING) ACT, 1869.

32 & 33 VICT. CHAP. 40.

An Act to exempt from rating Sunday and Ragged Schools.

[26th July, 1869.]

[*Preamble.*]

Sunday and Ragged Schools may

[I.] Every authority having power to impose or levy any rate upon the occupier of any building or part of a building used

Sect. 42. Note.

By the Elementary Education (Blind and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42), s. 13, this section is repealed, except as to children who are (*a*) idiots or imbeciles; or (*b*) resident in a workhouse or in an institution to which they have been sent by a board of guardians; or (*c*) boarded out by guardians.

Sect. 1. Note.

The rating authority has a discretion under this section whether it will or will not exempt such building from any rate (*Bell* v. *Crane*, L. R. 8 Q. B. 481; 42 L. J. M. C. 122; 29 L. T. (N. S.) 207; 21 W. R. 911).

The schools to which this Act applies are not voluntary schools within the meaning of that term in the Voluntary Schools Act, 1897 (60 & 61 Vict. c. 5), so as to be altogether exempt from rates. (See sect. 4 of that Act, and the definition of "public elementary school" in the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 10.)

exclusively as a Sunday School or Ragged School may exempt such building or part of a building from any rate for any purpose whatever which such authority has power to impose or levy: Provided, that nothing in this Act contained shall prejudice or affect the right of exemption from rating of Sunday or Infant Schools, or for the charitable education of the poor in any churches, district churches, chapels, meeting houses, or other premises, or any vestry rooms belonging thereto, or any part thereof, by virtue of the Poor Rate Exemption Act, 1833. Sect. 1. be exempted from rates for relief of poor, &c. 3 & 4 Will. 4, c. 30.

II. A "Sunday School" shall mean any school used for giving religious education gratuitously to children and young persons on Sunday, and on week days for the holding of classes and meetings in furtherance of the same object, and without pecuniary profit being derived therefrom. Interpretation of terms.

A "Ragged School" shall mean any school used for the gratuitous education of children and young persons of the poorest classes, and for the holding of classes and meetings in furtherance of the same object, and without any pecuniary benefit being derived therefrom except to the teacher or teachers employed.

III. This Act shall not extend to Ireland. Extent of Act.

IV. This Act may be cited as "The Sunday and Ragged Schools (Exemption from Rating) Act, 1869." Short title.

POOR RATE ASSESSMENT AND COLLECTION ACT, 1869.

32 & 33 VICT. CHAP. 41.

An Act for amending the Law with respect to the rating of Occupiers for short terms, and the making and collecting of the Poor's Rate. [26th July, 1869.]

[*Preamble.*]

[I.] The occupier of any rateable hereditament let to him for a term not exceeding three months shall be entitled to deduct the amount paid by him in respect of any poor rate assessed upon such hereditament from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate so paid. Lessees for short terms may deduct poor rate from rent.

II. No such occupier shall be compelled to pay to the overseers at one time or within four weeks a greater amount of the rate than would be due for one quarter of the year. Amount of rate payable by occupier.

Where such occupier, after having been served with a demand in writing for the full amount of a rate, claims to pay under sect. 2 Sect. 2. Note.

Sect. 3.

Owners may agree to pay the rate and be allowed a commission.

III. In case the rateable value of any hereditament does not exceed twenty pounds, if the hereditament is situate in the metropolis, or thirteen pounds if situate in any parish wholly or partly within the borough of Liverpool, or ten pounds if situate in any parish wholly or partly within the city of Manchester or the borough of Birmingham, or eight pounds if situate elsewhere, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may, subject nevertheless to the control of the vestry, agree with the owner to receive the rates from him, and to allow to him a commission not exceeding twenty-five per cent. on the amount thereof.

Vestries may order the owner to be

IV. The vestry of any parish may from time to time order that the owners of all rateable hereditaments to which section

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Sect. 2.

Note.

such rate by instalments, a distress warrant may be issued fo non-payment of any such instalment upon proof that it was orally demanded by the overseers (*Walton-on-the-Hill* v. *Jones*, [1893] 2 Q. B. 175; 62 L. J. M. C. 123; 69 L. T. 319; 42 W. R. 32; 57 J. P. 552).

Sect. 3.

Note.

In rural parishes the parish council will exercise the powers of the vestry (Local Government Act, 1894, s. 6 (1)); or, in small parishes, the parish meeting (*Ib.*, s. 19 (4)).

This section and sect. 4, impliedly repeal the provisions of sect. 19 of the Poor Relief Act, 1819 (59 Geo. 3, c. 12), and owners can now be rated to the poor instead of occupiers only under the provisions of this Act (*West Ham* v. *Fourth City Mutual Building Society*, [1892] 1 Q. B. 654; 61 L. J. M. C. 128; 66 L. T. 350; 40 W. R. 446; 56 J. P. 438).

Promoters of an undertaking became liable to make good a deficiency in rates under sect. 133 of the Lands Clauses Act, 1845, which provides that "such deficiency shall be computed according to the rental at which such lands, with any buildings thereon were valued or rated at the time of the passing of the special Act." After the passing of the special Act the owners of certain houses entered into an agreement under sect. 3 of this Act to pay the rates upon obtaining a deduction of twenty-five per cent. The promoters took this property, and claimed in making good the deficiency in the rates to the benefit of this deduction. *Held* that the deficiency must be computed having regard to the rateable value of the property at the time of the passing of the special Act, and that they were therefore not entitled to any deduction (*St. Leonard, Shoreditch*, v. *London County Council*, [1895] 2 Q. B. 104; 64 L. J. Q. B. 615; 72 L. T. 802; 43 W. R. 598; 59 J. P. 423).

Sect. 4.

Note.

In rural parishes the parish council will exercise the powers of the vestry (Local Government Act, 1894, s. 6 (1)); or, in small parishes, the parish meeting (*Ib.*, s. 19 (4)).

An owner who compounds with the vestry under this section,

three of this Act extends, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments,

Sect. 4.

rated instead of the occupier.

and is allowed a deduction, does not thereby enter into contract with the vestry. A married woman, therefore, who has so compounded is liable to the ordinary process of distress and imprisonment for non-payment of the rates, and the remedy is not merely against her separate estate as in the case of contracts by a married woman (*Re Allen*, [1894] 2 Q. B. 924; 63 L. J. M. C. 267; 43 W. R. 141; 59 J. P. 229).

Sect. 4.

Note.

It is a condition precedent to making a further abatement of fifteen per cent. under this section that notice should be given by the owner under sub-sect. (2) that he is willing to be rated for a term in respect of all the rateable hereditaments of which he is the owner, and the overseers cannot waive such notice (*Bennett* v. *Atkins*, 4 C. P. D. 80; 48 L. J. C. P. 95; 40 L. T. 66; 27 W. R. 231; 43 J. P. 191).

Although an owner ought to give notice that he is willing to compound in respect of *all* the small tenements of which he is owner, nevertheless, if he give notice only in respect of some of them, and the vestry enter into a composition with him in respect of those with regard to which notice has been given, a distress will not be issued against the owner for the rates on the houses of which no notice has been given and no composition made, but the occupiers of such houses may be rated at the full value. It is the duty of the justices on an application for a distress warrant to determine judicially whether the owner, against whom the warrant is applied for, is liable to pay the rates (*Reg.* v. *Thornton*, 8 T. L. R. 555).

The vestry is only entitled under this section to order the owner of a hereditament to be rated to the poor rate instead of the occupier so long as the rateable value of such hereditament does not exceed the limits specified by sect. 3. Thus, prior to May 13th, 1889, the vestry of Norwood ordered that the owners of all hereditaments in the parish under the rateable value of 8*l.* should be rated to the poor rate instead of the occupiers, and such order was unrescinded at the time of the making of the rate in question in 1891. On May 13th, 1889, one Hanson gave notice in writing to the overseers under sub-sect. (2) of this section, that being an owner of the several hereditaments described in the schedule thereto, he was willing to be rated for a term of three years in respect of all such hereditaments instead of the occupiers. On May 21st, 1889, an agreement was made between Hanson and the overseers by which the overseers agreed to allow to Hanson an abatement of twenty-five per cent. from the amount of all poor rates to which he should be rated during the said term of three years. On September 26th, 1890, a new valuation list was made, and the rateable value of one of the said hereditaments was raised from 8*l.* to 11*l.* 5*s.* On August 17th, 1891, while such valuation list was in force, a poor rate was made, and one Salter, who was the occupier of the said hereditament, was rated as such occupier, instead of Hanson, who was still the owner of the premises. It was held that as the rateable value of the premises had risen above the statutory limit, the order of the vestry, and the subsequent agreement with the owner had ceased to be in force, and that the occupier was properly rated instead of the owner (*Norwood, Overseers*, v. *Salter*, [1892] 2 Q. B. 118; 61 L. J. M. C. 193; 67 L. T. 376; 56 J. P. 535).

Sect. 4.

instead of the occupiers, on all rates made after the date of such order; and thereupon and so long as such order shall be in force the following enactments shall have effect:

1. The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate:
2. If the owner of one or more of such rateable hereditaments shall give notice to the overseers in writing that he is willing to be rated for any term not being less than one year in respect of all such rateable hereditaments of which he is the owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum from the amount of the rate during the time he is so rated:
3. The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect:

Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling-house shall not be included.

Owners omitting to pay rates before the fifth day of June to forfeit commission.

V. When an owner who has become liable to pay the poor rate omits or neglects to pay, before the fifth day of June, in any year, any rate or any instalment thereof which has become due previously to the preceding fifth day of January, and has been duly demanded by a demand-note delivered to him or left at his usual or last known place of abode, he shall not be entitled to deduct or receive any commission, abatement, or allowance to which he would, except for such omission or neglect, be entitled under this Act, but shall be liable to pay, and shall pay, such rate or instalment in full.

Repeal of 13 & 14 Vict. c. 99, &c. so far as applies to the poor rate.

VI. The statute thirteenth and fourteenth Victoria, chapter ninety-nine, with respect to the rating of small tenements, and so much of any local statute as relates to the rating of owners instead of occupiers, are hereby repealed, so far as the same apply to any poor rate made after this Act comes into operation.

Constructive payment of the rate.

VII. Every payment of a rate by the occupier, notwithstanding the amount thereof, may be deducted from his rent as

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Sect. 6. Note.

The statute 13 & 14 Vict. c. 99, is wholly repealed by the S. L. R. Act, 1875.

Sect. 7. Note.

By the Assessed Rates Act, 1879 (42 & 43 Vict. c. 10), s. 2, any irregularity in an agreement, &c., under which a deduction or allowance is made is not to affect any qualification or franchise.

herein provided, and every payment of a rate by the owner, whether he is himself rated instead of the occupier, or has agreed with the occupier or with the overseers to pay such rate, and notwithstanding any allowance or deduction which the overseers are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise which as regards rating depends upon the payment of the poor rate. Sect. 7.

VIII. Where an owner who has undertaken, whether by agreement with the occupier or with the overseers, to pay the poor rates, or has otherwise become liable to pay the same, omits or neglects to pay any such rate, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such rate shall be a valid discharge of the rent to the extent of the rate so paid. Where owners omit to pay rates, the occupiers paying the same may deduct amount from the rent.

IX. Every owner who agrees with the overseers to pay the poor rate, or who is rated or liable to be rated for any hereditament instead of the occupier, shall deliver to the overseers, from time to time, when required by them, in writing, a list containing the names of the actual occupiers of the hereditaments comprised in such agreement, or for which he is so rated or liable to be rated; and if any such owner wilfully omits to deliver such list when required to do so, or wilfully omits therefrom or misstates therein the name of any occupier, he shall for every such omission or misstatement be liable, on summary conviction, to a penalty not exceeding two pounds. Owners to give lists of occupiers, and liable to penalty for wilful omission.

X. Section twenty-eight of the Representation of the People Act, 1867, with respect to notice to be given of rates in arrear, shall apply to occupiers of premises capable of conferring the Parliamentary franchise, although the owners of such premises have become liable for the rates assessed thereon under the provisions of this Act. Notice to occupiers of rates in arrear. 30 & 31 Vict. c. 102.

XI. Where the owner has become liable to the payment of the poor rates the rates due from him, together with the costs and charges of levying and recovering the same, may be levied on the goods of the owner, and be recovered from him in the same way as poor rates may be recovered from the occupier. Liability of owner under agreement.

XII. Notwithstanding the owner of any such rateable hereditament as aforesaid has become liable for payment of the poor rates assessed thereon, the goods and chattels of the occupier shall be liable to be distrained and sold for payment of such Recovery of rates unpaid by the owner.

For the manner in which poor rates may be recovered from the occupier by distress, see Archbold's Poor Law, 15th ed., pp. 1043 *et seq.* Sect. 11. Note.

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rates as may accrue during his occupation of the premises, at any time whilst such rates remain unpaid by the owner, subject to the following provisions :

1. That no such distress shall be levied unless the rate has been demanded in writing by the overseers from the occupier, and the occupier has failed to pay the same within fourteen days after the service of such demand :
2. That no greater sum shall be raised by such distress than shall at the time of making the same be actually due from the occupier for rent of the premises on which the distress is made :
3. That any such occupier shall be entitled to deduct the amount of rates for which such distraint is made, and the expense of distraint, from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate and expenses paid.

Owner may appeal against valuation list and rate.

XIII. Every owner of any hereditament for the rates of which he has become liable shall have the same right of appeal (subject to the same conditions and consequences) against the valuation lists and the poor rates as if he were the occupier thereof.

The overseers to state the period for which poor rate is made.

Proviso.

XIV. The overseers of every parish when they make a poor rate shall set forth in the title of the rate the period for which the same is estimated, and if the same is payable by instalments the amount of each instalment and the date at which each instalment is payable; provided that if the necessities of the parish shall require it another rate may be made before such period shall have elapsed.

Overseers may make poor rate payable by instalments.

XV. The overseers who make the poor rate for a period exceeding three months may declare that the same shall be paid by instalments at such times as they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due, and the payment of any such instalment

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Sect. 13.

Note.

As to appeals against valuation lists outside the metropolis, see the Union Assessment Committee Acts, 1862 and 1864 (25 & 26 Vict. c. 103, ss. 19, 21; 27 & 28 Vict. c. 39, s. 1); within the metropolis, see the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), ss. 18—32.

As to appeals against poor rates, see Archbold's Poor Law, 15th ed., pp. 1015, *et seq.*

Sect. 14.

Note.

This section necessitates a change in the title of the rate prescribed by the Parochial Assessments Act, 1836 (6 & 7 Will. 4, c. 96), Sched. (See Form of Rate in schedules (Y.) and (Y. 2) to the Agricultural Rates Order, July 28th, 1896.)

Sect. 15.

shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which such instalment applies.

Provision for successive occupiers, and for occupiers coming into unoccupied hereditaments.

XVI. If the occupier assessed in the rate when made shall cease to occupy before the rate shall have been wholly discharged, or if the hereditament being unoccupied at the time of the making of the rate become occupied during the period for which the rate is made, the overseers shall enter in the rate-book the name of the person who succeeds or comes into the occupation, as the case may be, and the date when such occupation commences, so far as the same shall be known to them, and such occupier shall thenceforth be deemed to have been actually rated from the date so entered by the overseer, and shall be liable to pay so much of the rate as shall be proportionate to the time between the commencement of his occupation and the expiration of the period for which the rate was made, in like manner, and with the like remedy of appeal, as if he had been rated when the rate was made; and an outgoing occupier shall remain liable in like manner for so much and no more of the rate as is

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Sect. 16.

A clause of this section repealing 17 Geo. 2, c. 38, s. 12, is repealed by the S. L. R. Act, 1883.

Note.

Under this section it was held that where an outgoing occupier quitted premises before the expiration of the period for which a poor rate was made, and was not followed by an incoming tenant, but the premises remained unoccupied during the remainder of the period, the outgoing occupier was liable for the whole of the rate and that the section did not apply (*St. Werburgh Overseers* v. *Hutchinson*, 5 Ex. D. 19; 49 L. J. M. C. 23; 42 L. T. (N. S.) 153; 43 J. P. 785; *Hare* v. *Putney Overseers*, 7 Q. B. D. 223; 45 L. T. 337).

In consequence of these decisions the provisions of this section were amended by the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 3, which provides that an outgoing occupier shall only be liable to pay so much of the rate as shall be proportionate to the time of his occupation within the period for which the rate was made, notwithstanding he may not be succeeded in his occupation by an incoming tenant.

A trust deed covering the debentures of a company empowered the trustees to appoint a receiver of the premises, as if the trustees were mortgagees, with power for the receiver to take immediate possession of the property charged. A receiver was so appointed, and entered into possession of the premises: *Held* that there had been a change of occupation within the meaning of this section (*Richards* v. *Kidderminster Overseers*, [1896] 2 Ch. 212; 65 L. J. Ch. 502). But where a receiver and manager of a company's business is appointed by order of the court in a debenture-holders' action, and the order does not direct delivery up of possession to him of the company's premises, and he merely enters upon them for the purpose of carrying on the company's business, there is no such change of occupation within the meaning of the section, and the company remains liable for the rates (*Marriage Neave & Co., In re*, [1896] 2 Ch. 663; 65 L. J. Ch. 839).

Sect. 16. proportionate to the time of his occupation within the period for which the rate was made; . . .

When the poor rate shall be deemed to be made.

XVII. A poor rate shall be deemed to be made on the day when it is allowed by the justices, and if the justices sever in their allowance then on the day of the last allowance.

Evidence of making and publication of rates.

XVIII. The production of the book purporting to contain a poor rate, with the allowance of the rate by the justices, shall, if the rate is made in the form prescribed by law, be *primâ facie* evidence of the due making and publication of such rate.

Overseers to insert names of all occupiers in the rate.

XIX. The overseers in making out the poor rate shall, in every case, whether the rate is collected from the owner or occupier,

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Sect. 17. Note.

The allowance of the rate by the justices is prescribed by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, and the Poor Law (Justices Jurisdiction) Act, 1849 (12 & 13 Vict. c. 64).

Sect. 18. Note.

As to due publication of a poor rate, see the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 1; the Parish Notices Act, 1837 (7 Will. 4 and 1 Vict. c. 45), s. 2; and the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 4.

Sect. 19. Note.

It was formerly held that this section applied only to cases falling within sect. 3 or sect. 4 of this Act (*Cross* v. *Alsop*, L. R. 6 C. P. 315; 40 L. J. C. P. 57; 23 L. T. (N. S.) 589). But by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 14, it is made of general application; and the case of *Norris* v. *Hastings, Town Clerk of*, L. R. 4 C. P. 498, is thereby overruled.

The appellants' workmen in a colliery lived rent free in houses owned by their employers, who filled up the houses with their workmen, giving preference to married men. Married men for whom there was no house received allowance for rent, but single men did not. A married man could be called upon to go into a house when one was vacant, and if he did not would forfeit his allowance. Notice to quit the work was notice to quit the house. It was not necessary to live in a house to perform the work. The owners did not compound for their rates, but paid the full amount. *Held* (following *Hughes* v. *Chatham*, *infra*), that in these circumstances the appellants were entitled under this section to have their names entered in the occupiers' column of the rate-book, and that the overseers were liable to a penalty for omitting to enter them (*Smith* v. *Sedghill*, L. R. 10 Q. B. 422; 44 L. J. M. C. 114; 32 L. T. (N. S.) 859; 40 J. P. 228; S. P. *Barton* v. *Birmingham, Town Clerk of*, 48 L. J. C. P. 87).

The case of *Hughes* v. *Chatham* was decided upon a question as to the Parliamentary franchise under 2 & 3 Will. 4, c. 45, s. 27. There A., the master ropemaker in a royal dockyard, had, as such, a house in the dockyard for his residence, of which he had the exclusive use, without paying rent, as part remuneration for his services, no part of the house being used for public purposes. The house was stated in the case to belong to the lords of the Admiralty (if not

Sect. 19.

or the owner is liable to the payment of the rate instead of the occupier, enter in the occupiers' column of the rate-book the name of the occupier of every rateable hereditament, and such occupier shall be deemed to be duly rated for any qualification or franchise as aforesaid; and if any overseer negligently or wilfully and without reasonable cause omits the name of the occupier of any rateable hereditament from the rate, or negligently or wilfully misstates any name therein, such overseer shall for every such omission or misstatement be liable on summary conviction to a penalty not exceeding two pounds: provided, that any occupier whose name has been omitted shall, notwithstanding such omission and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted.

Interpretation.

XX. The word "overseer" shall include every authority that makes an assessment for the poor rate; the words "poor rate" shall mean the assessment for the relief of the poor, and for the other purposes chargeable thereon according to law, and in the metropolis shall extend to every rate made by the overseers, and chargeable upon the same property as the poor rate; the word "owner" shall mean any person receiving or claiming the rent of the hereditament for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person for whom he is acting as agent; the word "parish" shall signify every place for which a separate overseer can be appointed; the word "vestry" shall include not only the vestry of a parish existing under the authority of some general or special Act of Parliament, or by special custom or otherwise, but also the meeting of the inhabitants of any township, vill, or place having a separate overseer, and for which a separate poor rate is made, held after notice given in like manner as is required by law in

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Sect. 19. Note.

to the Queen), and if A. had not had it he would have had an allowance for a house in addition to his salary. In these circumstances A., it was held, occupied the house as tenant within 2 & 3 Will. 4, c. 45, s. 27; he was rated as occupier, and the rates were paid by the Paymaster-General also in part remuneration for his services, and if he had paid the rates the Admiralty would have repaid him. *Held* that, as the payment was of a rate for which A. was liable, and as it was made on his account and he gave value for it, there was a sufficient payment of rates *by him* within the same section (*Hughes* v. *Chatham*, 5 M. & G. 54).

The inhabitant occupier of a dwelling-house, which, though rateable, has not been rated to a poor rate during the qualifying period, and in respect of which such rate has not been paid, is not entitled either to the Parliamentary or municipal franchise (*Palmer* v. *Wade*, [1894] 1 Q. B. 268).

Sect. 20.

18 & 19 Vict. c. 120.

regard to the meetings of vestries; and the word "metropolis" shall include only the metropolis as defined by the Metropolis Management Act, 1855.

Extent.

XXI. This Act shall not extend to Scotland or to Ireland.

Short title.

XXII. This Act may be cited as "The Poor Rate Assessment and Collection Act, 1869," . . .

UNION LOANS ACT, 1869.

32 & 33 VICT. CHAP. 45.

An Act to amend the Law relating to the Repayment of Loans to Poor Law Unions.* [2nd August, 1869.]

[*Preamble.*]

Short title.

[I.] This Act may be cited as "The Union Loans Act, 1869."

Application of Act.

II. This Act shall not apply to Scotland or Ireland.

Interpretation.

4 & 5 Will. 4, c. 76.

III. Words in this Act shall have the same meaning as in the Poor Law Amendment Act, 1834.

Monies borrowed by guardians to be a charge on common fund.

IV. In the following cases; namely—

(1) Where any monies borrowed before the passing of this Act and since the twenty-fifth day of March one thousand eight hundred and sixty-two by the guardians of any union, with the consent of the Poor Law Board, are owing by such guardians on the twenty-ninth day of September one thousand eight hundred and sixty-nine;

(2) Where any monies are borrowed by the guardians of any union, with the consent of the Poor Law Board, after the passing of this Act;

Such monies, with the interest thereon, shall be a charge upon and be paid out of the common fund of such union; Provided

* For "Poor Law Board" throughout this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 4. Note.

Monies are now borrowed by guardians and by managers of district schools and asylums under the provisions of the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

This section and sect. 6 are, by the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 13, to be deemed to have applied and are to apply to managers of district schools and to the managers of districts constituted under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), in like manner as if they were guardians.

always, that no monies borrowed before the passing of this Act shall be so charged and paid without the unanimous consent of a meeting of guardians, of which meeting, and of the business to be transacted, at least seven days' notice shall be given to each guardian, nor without the consent of the Poor Law Board. Sect. 4.

V. Any sum or sums of money borrowed by the guardians of any union or parish after the passing of this Act may, at the option of such guardians, and with the consent of the Poor Law Board, be repaid— Manner in which monies borrowed by guardians may be repaid.

(1) *By thirty equal annual payments of the principal sum borrowed, with the interest on the balance remaining unpaid each year:*

(2) *By such equal annual payments as, reckoning principal and interest together, will repay the sum borrowed within thirty years.*

VI. . . . Every security for money borrowed under the authority of any order of the Poor Law Board may be made according to the following form, or as near thereto as the circumstances of the case will admit: Provision for future securities.

Form of Security.

This deed made the day of in the year one thousand eight hundred and , witnesseth that in consideration of the sum of lent to the guardians of the poor of the Union in the county of *or* to the guardians of the poor of the parish of in the county of *or* to the board of management of the District (School *or* Asylum) *or* to the churchwardens and overseers of the poor of the parish of *or* to the overseers of the poor of the township of in the county of under the provisions of the Act [*here state the Act authorizing the loan*], and in pursuance of and upon the authority of an order of the Poor Law Board, bearing date the day of by [*here set out the name and description of the public board, commissioners, or company, or the person, lending the money*], the receipt of which sum is testified by the memorandum at the foot thereof, signed by our treasurer [*or, in the case of the overseers,* by us], we the said guardians do hereby charge the common fund of the said union, *or* the poor rates of the said parish, *or* we, the said board of management, do charge the common fund of the district, *or* the poor rates to be raised in the several unions and parishes combined in the said district, namely [*here set out the*

Amended by the Poor Law Act, 1879 (42 & 43 Vict. c. 54), ss. 12, 13; and repealed and replaced by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 1. Sect. 5. Note.

A clause omitted from this section repealed 14 & 15 Vict. c. 105, s. 7, and is repealed by the S. L. R. Act, 1883. Sect. 6. Note.

Sect. 6.

names of the unions and parishes combined in the district], *or* we the said churchwardens and overseers *or* overseers do hereby charge the future poor rates of the said parish *or* township with the repayment of the said sum of by [*here insert the number of yearly instalments by which the loan is to be repaid, not exceeding the number limited by the statute or statutes under which it is advanced, but including those to which the time of repayment may have been extended under any statute in that behalf*] instalments on the day in the years following, that is to say, the sum of on the day of in the year one thousand eight hundred and the sum of on the day of in the year one thousand eight hundred and the sum of on the day of in the year one thousand eight hundred and , together with interest at the rate of pounds per centum per annum yearly on the days aforesaid or half-yearly on the day of and on the day of in every year upon the principal for the time being unpaid according to the terms of this security *or* by instalments of the sum of in respect of the principal and interest of the sum so borrowed to be paid on the day of in every succeeding year during a period not exceeding years; provided that nothing herein contained shall prevent the said from receiving the repayment of the whole or part of the aforesaid sum at any time before the day of payment of the last instalment if willing to do so.

In testimony whereof we the guardians aforesaid, *or* we the said board of management, have hereunto affixed our common seal, *or* we the said churchwardens and overseers *or* overseers have hereunto set our hands and seals.

(L.S.) (L.S.) (L.S.)

Received this day of the above-mentioned sum of from the said

A. B., Treasurer of the Union, *or* of the parish of , *or* of the said district board.

or C. D. and *E. F.*, *G. H.* and *I. K.* } Churchwardens, and overseers of the poor of the said parish.

or G. H. and *I. K.* Overseers of the poor of the said township.

* * * * *

22 & 23 Vict. c. 49, s. 3.

Note.—The Poor Law (Payment of Debts) Act, 1859, section three, enacts that in the case of any debt charged by guardians upon the poor rates made repayable by instalments, each instalment shall be payable within one year next after the day when the same shall fall due, unless the Poor Law Board shall allow an extension of the time for the payment not exceeding six months, and the interest shall be payable within the like times only as the principal.

HIGH CONSTABLES ACT, 1869.

32 & 33 VICT. CHAP. 47.

An Act to provide for the discharge of the duties heretofore performed by High Constables, and for the abolition of such office, with certain exceptions. [2nd August, 1869.]

[This Act is printed here on account of the provisions of sect. 3.]

[*Preamble.*]

Interpretation.

[I.] For the purposes of this Act the word "high constable" shall include any constable of any hundred or other like district, and any officer discharging the duties usually performed by high constables by whatever name such officer shall be called; and the word "county" shall include any riding, division, liberty, and place having separate quarter sessions of the peace.

When vacancies not to be filled up.

II. [*Provision that the justices of the peace assembled in quarter sessions should determine whether the office of high constable of any district within their jurisdiction should be continued: Repealed by the S. L. R. Act,* 1893.] . . . Whenever such justices so assembled as aforesaid shall have determined in the case of any such hundred or other like district that it is not necessary that the office of high constable should be continued, they shall send notice of such determination to the person or persons in whom the appointment of such high constable is vested, and on the occurrence thereafter of any vacancy in such office such vacancy shall not be filled up, but this provision shall not apply to the case of any high constable who is by law or custom returning officer at any Parliamentary or municipal election, or is charged with the supervision of the register of electors, or in whom is vested by virtue of his office any real property.

How notices are to be sent.

III. It shall be the duty of the clerk to the justices of the peace in each petty sessional division, other than those which are either wholly or partly within the metropolitan police district or the city of London, to send by post to the proper parties in such division all notices of the holding of special or other sessions, of days of appeal, and of any other matter or thing (except such as relate to claims against the hundred or other like district, or to Parliamentary or municipal elections, or the registration of electors), of which notices are now by law or custom served upon or sent to any parochial officer or other

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For meaning and effect of "sending by post," see the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 26.

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person by high constables, and no precept or notice to perform any such duty in any such division shall hereafter be issued to any high constable.

Provisions of 7 & 8 Vict. c. 33, to come into general operation.

IV. All the provisions of the County Rates Act, 1844, which under such Act are to come into force upon the occurrence of any vacancy in the office of high constable of any hundred, shall come into force immediately after the passing of this Act in every case as if a vacancy in such office had occurred.

Chief constable to act in case of claims against hundred.

V. In every action to be brought or summary claim to be preferred against any hundred or other like district, of which there is no high constable, the process for appearance in the action and the notice required in the case of the claim shall be served upon the chief constable or other acting chief officer of police for the time being of the county in which such hundred or district is situate, and all matters which by any Act the high constable of a hundred is authorized or required to do in either of such cases shall be done by the officer so served, who shall have the same powers, rights, and remedies, and be subject to the same liabilities as any high constable would but for the passing of this Act have had and incurred under any Act of Parliament, and in case of the termination of his office by death or otherwise his successor shall act in his stead.

[Sect. 6. Repealed by the S. L. R. Act, 1883.]

Provision in case of hundreds situate partly in boroughs.

VII. When part of any hundred or other like district is within the limits of any borough or place having separate police jurisdiction, such hundred or district shall, for the purposes of this Act, be deemed to be in the county in which the other part of such hundred or district is situate.

Short title.

VIII. This Act may be cited as "The High Constables Act, 1869."

METROPOLITAN POOR AMENDMENT ACT, 1869.

32 & 33 VICT. CHAP. 63.

An Act to amend the Metropolitan Poor Act, 1867.*

[9th August, 1869.]

[Preamble recited the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6).]

* For "Poor Law Board" and "Poor Law Commissioners" in this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Poor Law Board empowered to dissolve asylum and school districts and unions.

4 & 5 Will. 4, c. 76.

[I.] The Poor Law Board, as and when they shall see fit, may dissolve any asylum or school district contained wholly or partly in the metropolis, and upon such dissolution shall adjust the rights and liabilities of parishes and unions comprised therein respectively, and provide for the compensation of the officers and other persons employed therein, in like manner as when a union is dissolved under the authority of the thirty-second section of the Poor Law Amendment Act, 1834; . . . and prior to issuing any order dissolving such district, the said board may by their order empower the managers of such district to sell and dispose of any land, buildings, or other property belonging to them, and to apply the produce thereof in discharge of the debts and liabilities then outstanding against such managers, and to distribute any surplus which may remain among the parishes or unions comprised therein according to their original proportions, and if the said district shall be dissolved before the same shall be sold, the said board may by their order empower the persons who were the managers of the district at the time of its dissolution, or the major part of them, to make such sale, and to convey the land to the purchaser thereof, and to apply and distribute the produce accordingly.

Amalgamation of the several parts of a district into one union.

7 & 8 Vict. c. 101.

30 & 31 Vict. c. 6.

II. Where the union or unions and parish or parishes or unions or parishes, constituting any district formed under the Poor Law Amendment Act, 1844, or under the Metropolitan Poor Act, 1867, shall have been or shall be formed into one union for the relief of the poor, all the property, real and personal, of the board of managers shall be transferred to, and shall vest in, the guardians of the said union, and the liabilities, obligations, and debts of the said board of managers shall be, in like manner, transferred to and be discharged by the said guardians.

Provision for parish workhouse in unions upon which union money has been expended.

III. Where the guardians of any union shall at any time, under the orders of the Poor Law Commissioners or the Poor Law Board, have borrowed money and expended it upon the improvement or enlargement of the workhouse or other property belonging to any parish comprised within the union, and such workhouse or property shall afterwards be sold or let, the

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Sect. 1. Note.

The words omitted from this section, which repealed so much of sect. 32 of 4 & 5 Will. 4, c. 76, as required the concurrence of two-thirds of the guardians for the dissolution of any union, are repealed by the S. L. R. Act, 1883.

For the establishment of asylum districts in the metropolis, see the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 6.

For the establishment of school districts, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 40.

For further provisions upon the dissolution of districts, see the Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2).

Sect. 2. Note.

See note to sect. 1, *supra*.

Sect. 3.

guardians shall be entitled to receive out of the purchase-money or rents such an amount as in the judgment of the Poor Law Board shall appear reasonable, and the same shall be appropriated for the benefit of the said union in such manner as the said board shall by their order direct.

Poor Law Board empowered to adjust parts of divided parishes.

IV. Where several parts of any parish are separated from one another and it shall appear to the Poor Law Board that the relief to the poor in such parish can be better administered by means of a readjustment of those parts, the said board may, by an order under seal, make a readjustment of such parts, by incorporation with an adjoining parish or otherwise, in such manner as shall seem to them to be most expedient; and they shall, after the issuing of such order, make all such regulations for the adjustment of the rights and liabilities of the parts of the parishes respectively affected by the said order as the nature of the case shall in their judgment require.

Provision for the dealing with the property vested in a board of guardians of a parish on the dissolution of the board.

V. Where upon the constitution of a board of guardians for any parish under the order of the Poor Law Commissioners or the Poor Law Board any workhouse, land, goods, effects, or other real or personal estate then vested in or belonging to any body or persons in trust for the parish, became vested in or transferred to such guardians, and the board so constituted has been or shall be dissolved or has otherwise ceased or shall cease to exist, such workhouse, land, goods, effects, or other real or personal estate shall, upon such dissolution or cessation, be by virtue of this Act revested in and transferred to the body or persons if still subsisting in whom the same were vested, or to whom the same belonged when any such board was constituted, to be held upon the same trusts and with the same rights and obligations as existed when the property was previously held by such body or persons, and subject to all obligations lawfully created by the said board while the same was vested in them; and if there should be no such body or persons subsisting in whom the same can be so vested, and as regards all property acquired by the said board otherwise than as aforesaid, the same shall in like manner, upon such dissolution or cessation, vest in and be transferred to the churchwardens

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Sect. 4. Note.

See also sect. 22, *infra*. For powers of the county council in adjusting boundaries, &c., see Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 57, and Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 33, 36. Any scheme made in pursuance of the London Government Act, 1899, may provide for anything being done under those sections so, however, that parishes in different unions shall not be united except with the approval of the Local Government Board, (62 & 63 Vict. c. 14, s. 16 (1) (*c*).)

Sect. 5. Note.

This section replaces the provisions of sect. 17 of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), which it repealed. The repeal clause is now repealed by the S. L. R. Act, 1883.

and overseers of the poor, or the overseers of the poor only, as the case may be, of the said parish, upon such trusts, with the same rights and subject to the same obligations as aforesaid . . . Sect. 5.

VI. The qualification of managers referred to in section 10 of the Metropolitan Poor Act, 1867, shall be deemed to have been and to be that which the Poor Law Board are empowered to prescribe by the twelfth section of the said Act. Managers of asylum districts. 30 & 31 Vict. c. 6.

VII. When any parish or union comprised in a district formed as aforesaid shall have been, or shall be added to a union, or shall be formed into a union with some other parish, without being separated from the district, every manager elected or nominated for such parish or union shall continue to act as a member of the board of managers for such district until the term for which he was elected or nominated shall have expired, and the board of management shall continue to be legally constituted, notwithstanding any such change in the separate parishes or unions combined therein ; and where the Poor Law Board shall have nominated guardians in any union or parish, the board of guardians shall continue to be legally constituted, and such nominated guardians to be qualified to act until the expiration of the term for which they were nominated, notwithstanding any increase in the number of *ex-officio* guardians in the meantime. Provision for the acting managers of a parish in a district where such parish is added to a union.

VIII. Every registrar of births and deaths or marriages acting for any district in a union or parish, on or after the twenty-fourth day of June one thousand eight hundred and sixty-nine, shall be entitled to continue in office notwithstanding the dissolution of the union, or the addition or separation from a union of the parish or parishes comprising the district for which he acts, to the same extent as if such dissolution, addition, or separation had not taken place . . . Registrars of births and deaths to continue in office notwithstanding dissolution of union.

IX. [*Repeal of* 30 *&* 31 *Vict. c.* 6, *s.* 17, *para.* (2).] The sums of money now borrowed or hereafter to be borrowed by the managers of any district under the authority of that or any subsequent Act shall, with interest thereon, be charged upon and paid off out of the common fund of the district. How loans in districts to be charged.

[Sect. 10. *Applying sect.* 24 *of* 31 *&* 32 *Vict. c.* 122, *to auditors appointed under* 30 *&* 31 *Vict. c.* 6, *s.* 33*:* Repealed by the S. L. R. Act, 1883.]

XI. The guardians of any union or parish and the managers of any school or asylum district may, with the consent of the Guardians and managers may provide

Ex-officio and nominated guardians are now abolished (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 20). Sect. 7. Note.

See sects. 15 and 47 of the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), for providing asylums and schools respectively. Sect. 11.

The provisions of that Act applicable to buildings for an asylum Note.

Sect. 11.

ships for the training of boys for the sea service.

30 & 31 Vict. c. 6.

Poor Law Board, purchase, hire, or otherwise acquire and fit up and furnish one or more ships to be used for the training of boys for the sea service, and every such ship shall be deemed to be a school or asylum, as the case may be, within the meaning of the Metropolitan Poor Act, 1867, and the several Acts therein referred to as the Poor Law Acts respectively.

Establishment of a dispensary committee not to be peremptory.

XII. Where the guardians of any union or parish provide a dispensary for their union or parish, it shall not be necessary that a dispensary committee shall be appointed for such dispensary unless the guardians apply to the Poor Law Board to issue an order for that purpose and the Poor Law Board issue such order accordingly.

Where a dispensary is provided guardians shall provide a place for the attendance of sick poor and medical officer.

30 & 31 Vict. c. 6.

XIII. If the guardians provide a place for the dispensing of medicines for the relief of the sick poor of the union or parish, or of a district therein, under the authority of any other Act than the Metropolitan Poor Act, 1867, they shall, if required by the Poor Law Board to do so, provide a proper room at such place where the medical officer of such union or parish, or of the district comprising such place, may see such of the sick poor as attend there for advice, and every medical officer of the union, parish, or district, as the case may be, shall, personally or by his authorized substitute, attend at that place during the times to be fixed for this purpose by the said guardians with the approval of the Poor Law Board.

If guardians refuse or neglect to provide a dispensary, no allowance to be made out of metropolitan common fund for medicines and medical officers' salaries.

XIV. If the guardians of any union or parish, after being required by the said board to provide a dispensary under the Metropolitan Poor Act, 1867, or under the authority of any other Act, neglect or refuse to comply with such requisition, no repayment shall be made from the metropolitan common poor fund to the guardians of such union or parish in respect of any medicine or medical or surgical appliances supplied by them to the poor of the union or parish, or in respect of the salaries of the medical officers of such union or parish, until the guardians provide a dispensary in conformity with the requisition of the Poor Law Board, from which time the right to such repayment shall again accrue.

Sect. 11. Note. are made applicable to ships, &c., provided under this section (Metropolitan Poor Act, 1871 (34 & 35 Vict. c. 15)).

Sect. 12. Note. As to appointment of dispensary committees, see Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), ss. 39—41.

Sect. 13. Note. See Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 42.

Sect. 14. Note. As to repayment from the metropolitan common poor fund, see the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), ss. 69, 70.

Sect. 15.

Vaccination expenses.

XV. No expenses of vaccination shall be repaid out of the said fund which shall have been incurred without the authority or without the approval of the Poor Law Board.

Arrangements with public general hospitals.

XVI. It shall be lawful for any board of guardians, with the consent of the Poor Law Board, to enter into arrangements with any public general hospital or dispensary situate within the limits of the parish or union for which the said board act, to receive and treat pauper patients on terms to be arranged between the board of guardians, with the sanction of the Poor Law Board, and the authorities of the hospital or dispensary, as the case may be.

Guardians may provide in their workhouses for the maintenance of particular classes of poor, and receive therein poor of the same class from other unions and parishes.

XVII. The guardians of any union or parish may, with the approval of the Poor Law Board, set apart any ward or portion of their workhouse for the reception of particular classes or descriptions of poor persons, and provide separate maintenance and treatment for them therein, subject to such regulations as the said board may at any time order or approve of, and may, with their consent, receive and maintain therein any poor person of the same class or description chargeable to any other union or parish upon such terms as shall be mutually agreed upon by the respective boards of guardians; and every such poor person so received into such workhouse shall, while therein, be treated in all respects in like manner, and be subject to the same regulations and liabilities as the other poor persons of the same class or condition, and shall be deemed to be chargeable in the first instance to the common fund of the union or to the parish in whose workhouse such poor person shall be received; provided that the abiding of such poor person in such workhouse shall in all other respects be attended with the same legal consequences as if such workhouse had been situated within the union or parish from which such poor person shall have been sent.

Compensations to officers.

XVIII. The compensation payable to any officer of a union or parish who shall be deprived of his office by reason of the parish being added to or taken from a union, or the union being dissolved or altered, and any compensation awarded by

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Note.

See the Vaccination Act, 1867 (30 & 31 Vict. c. 84), s. 10.

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Note.

Guardians are empowered to subscribe to hospitals and asylums from the common fund by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 4.

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Note.

The Local Government Board may direct guardians to receive in workhouses adapted only for poor of particular classes, poor of such classes belonging to other unions or parishes (Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 50).

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the Poor Law Board under section one of this Act shall be paid by the guardians of such one of the parishes or unions affected by the addition, alteration, or dissolution, as the Poor Law Board may by order direct, and shall be repaid to such guardians out of the metropolitan common poor fund.

Provision as to computing time of service of officers deprived of office under this Act.

XIX. In computing the time of the services of any officer of a union or parish who shall be deprived of his office by reason of the parish being added to or taken from a union, or the union being dissolved or altered, any period during which such officer shall have been in the service of a vestry, district board, or other parochial board of the same parish shall, with the consent of such vestry, district board, or other parochial board, be included.

[Sect. 20. *Repeal of* 30 *&* 31 *Vict. c.* 6, *s.* 29, *in part:* Repealed by the S. L. R. Act, 1883.]

Maintenance of orphans.

XXI. The cost of the maintenance and instruction of orphan or deserted children placed out by the guardians of any parish or union, with the consent of the Poor Law Board, shall be repaid to the guardians from the metropolitan common poor fund.

Readjustment of boundaries between two parishes by agreement of vestries.

XXII. When the boundaries between any two parishes are irregular or inconvenient, it shall be lawful for the vestries of such parishes to enter into an agreement to readjust such boundaries, and such agreement shall be submitted to the Poor Law Board for their approval, and such board shall, if they think fit, by an order under seal, confirm such agreement, and shall make such regulations for the adjustment of the rights and liabilities of the parishes affected by the said order as the nature of the case shall in their judgment require.

Interpretation.

30 & 31 Vict. c. 6.

4 & 5 Will. 4, c. 76.

XXIII. The term "common fund of the district" shall mean the fund raised by contributions from the unions and parishes forming the district assessed on and contributed by them in conformity with the provisions of the Metropolitan Poor Act, 1867, and words in this Act shall be construed in like manner as in the Metropolitan Poor Act, 1867, and the Poor Law Amendment Act, 1834, and subsequent Acts amending and extending the same, and the provisions contained in the said several Acts and not repealed shall, so far as they shall be consistent herewith, be extended to this Act.

Sect. 21. Note.

As to maintenance and instruction of orphans and deserted children, see the Poor Law (Certified Schools) Act, 1862 (25 & 26 Vict. c. 43); and the General Boarding-Out Orders, May 28th, 1889.

Sect. 22. Note.

See sect. 4, *ante*, and note thereto.

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XXIV. This Act shall, except where otherwise provided, apply to the metropolis only.

Extent.

Short title.

XXV. This Act may be cited and described for all purposes as "The Metropolitan Poor Amendment Act, 1869."

VALUATION (METROPOLIS) ACT, 1869.

32 & 33 VICT. CHAP. 67.

An Act to provide for Uniformity in the Assessment of Rateable Property in the Metropolis.* [9th August, 1869.]

[Preamble recited that it was expedient to provide a common basis of value for the purposes of government and local taxation, and to promote uniformity in the assessment of rateable property in the metropolis.]

Preliminary.

Construction. 25 & 26 Vict. c. 103. 27 & 28 Vict. c. 39.

[I.] The Union Assessment Committee Act, 1862, is in this Act referred to as "the principal Act;" and the principal Act, and the Union Assessment Committee Act, 1864 (amending the same,) shall for the purposes of this Act, and so far as is consistent with the tenor thereof, be incorporated with this Act; and the expression "this Act" in the principal Act, and any expression referring to the principal Act which occurs in the said Act amending the same, or in any other Act or document, shall, as regards places to which this Act extends, be construed to mean the principal Act as incorporated with this Act.

Short title.

II. This Act (including the Acts incorporated herewith) may be cited as "The Valuation (Metropolis) Act, 1869."

Extent.

III. This Act shall extend only to unions and parishes not in union, which are for the time being either wholly or for the

* Throughout this Act for "Poor Law Board" now read "Local Government Board" (34 & 35 Vict. c. 70).

All powers and duties of the clerk to the managers of the Metropolitan Asylums District under this Act are transferred to the clerk of the London County Council, and this Act is to be construed as if the county council were substituted for the managers: Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 44.

Sect. 1. Note.

By sect. 77, *post*, a considerable number of sections of the Union Assessment Committee Acts, 1862 and 1864, are repealed so far as they relate to the metropolis.

Sect. 3. Note.

By sect. 250 of the Metropolis Management Act, 1855, the jurisdiction of the Metropolitan Board of Works extended to the city of London and the places mentioned in schedules (A.), (B.), and (C.) to that Act.

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greater part in value thereof respectively situate within the jurisdiction of the Metropolitan Board of Works appointed under the Metropolis Management Act, 1855.

18 & 19 Vict. c. 120.

Interpretation.

IV. In this Act, unless the context otherwise requires,—

The term "metropolis" means the unions and parishes to which this Act extends:

The term "parish" means any place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed:

The term "union" means any union of parishes, and any parish for which there is a separate assessment committee under this Act and the Acts incorporated herewith:

The term "ratepayer" means every person who is liable to any rate or tax in respect of property entered in any valuation list:

The term "year" means the twelve months commencing with the sixth of April and ending with the succeeding fifth of April; and words referring to a year refer to the same period:

The term "surveyor of taxes" means any surveyor of taxes, inspector of taxes, or other officer appointed or to be appointed by the Commissioners either of Inland Revenue or of Her Majesty's Treasury for the purposes of any tax in respect of which a valuation list is by this Act made conclusive:

The term "overseers" includes any person or body of persons performing the duties of overseers so far as regards the assessment, making, and collection of rates for the relief of the poor:

13 & 14 Vict. c. 57.
18 & 19 Vict. c. 120.

The term "vestry clerk" means the vestry clerk, if any, elected under the Vestries Act, 1850, or under a local Act, or, if there is no such clerk, the vestry clerk appointed under the Metropolis Management Act, 1855:

The term "hereditament" means any lands, tenements, hereditaments, and property which are liable to any rate or tax in respect of which the valuation list is by this Act made conclusive:

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Note.

The meaning of the term "ratepayer" is extended by the Valuation (Metropolis) Amendment Act, 1884 (47 & 48 Vict. c. 5), s. 2, to all owners paying rates for the occupier.

Flats.

Certain blocks of buildings with separate entrances to a public street were divided respectively into two ranges by an internal staircase; having one door at the street entrance. The blocks were structurally divided into 117 different sets of rooms, distinct from each other, and capable of being let and occupied separately as residences or offices. Each set had an outer door opening on to one of the internal staircases. The sets of rooms were let severally in writing by the owners to certain tenants for a year, and then on

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The term "gross value" means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rent-charge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any necessary to maintain the hereditament in a state to command that rent:

The term "rateable value" means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses as aforesaid:

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Note.

from quarter to quarter, with power to the lessors to enter for certain specified purposes, and to resume possession on non-payment of rent, &c. Under these agreements the care of each entrance, locked at night, and of the rooms connected therewith, was in the charge of a porter (resident in a basement set of each block), appointed and removable by the owner; there were duplicate keys to the outer door of every set of rooms, one of which was always in the hands of the porter, the other in the care of the tenant, while the rooms were in use; and the tenant had the right free of charge to the general services of the porter, and to special services, the latter to be rendered as the servant of the tenant. In these circumstances, it was held that the sets of rooms ought to be valued in the valuation list of the union made under this Act as distinct separate rateable hereditaments, Cockburn, C.J., saying in his judgment "the question in these cases is whether there is an occupation of a distinct and separate tenement by a person who inhabits a portion of a house or building, or whether he is a mere inmate under the landlord. . . . The most convenient, and the only criterion, is whether the landlord retains control of the outer door, and has shown by his retaining control of the outer door that he has the control of the whole of the premises; so that although he may be liable to an action upon the breach of his contract to allow the tenant to occupy a portion of the premises so let to the tenant, yet the tenant could not maintain trespass against the landlord, because the landlord has retained in himself the dominion and control over the whole of the house" (*Reg.* v. *St. George's Union Assessment Committee*, L. R. 7 Q. B. 90; 41 L. J. M. C. 30; 25 L. T. (N. S.) 696; 20 W. R. 179; 36 J. P. 550).

Gross value.

Compare the definition of "gross estimated rental" in the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 15.

The owner of a block of artisan buildings, consisting of separate tenements, the access to which was by a common staircase, let the tenements upon the terms of the tenants paying a certain weekly sum by way of rent, and also a further sum for the lighting and cleaning of the common staircase. *Held* that for the purpose of arriving at the gross value of the tenements under this Act, the sum paid for lighting and cleaning the staircase must be added to the rent reserved (*Puller* v. *St. Saviour's Union*, [1900] 1 Q. B. 138).

Rateable value.

Compare the definition of "net annual value" in the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 1.

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Assessment Committee.

Election of assessment committee in single parish where there is a vestry.

V. Where, in any parish which is not included in any union formed under the Poor Law Amendment Act, 1834, and the Acts amending the same, there is for the time being a vestry elected according to the provisions of the Metropolis Management Act, 1855, but no assessment committee under the principal Act, the following provisions shall have effect:

(1) Where in any such parish there is a board of guardians having power under any local Act to assess or make the rates for the relief of the poor, that board of guardians shall appoint an assessment committee:

(2) Where any two of such parishes are united under a local Act for the purpose of assessing or making the rates for the relief of the poor, the guardians for such united parishes elected in pursuance of the Poor Law Amendment Act, 1834, and the Acts amending the same, shall appoint an assessment committee:

4 & 5 Will. 4, c. 76.

(3) In cases other than those before mentioned the vestry of such parish shall appoint an assessment committee:

(4) In every year, the body who appoint an assessment committee under this section shall on a day fixed by such body between the fifteenth and twenty-ninth of April in that year, or some other date fixed by the Poor Law Board, hold a meeting, and appoint from among themselves an assessment committee (consisting of not less than six or more than twelve in number) in the same manner, as near as may be, as if the parish or united parishes were an union and the appointing body a board of guardians within the meaning of the principal Act.

All the provisions of this Act and the Acts incorporated herewith shall—

(*a.*) in cases where the assessment committee is appointed by guardians under this section be construed as if such guardians, and the monies applicable by such guardians for the relief of the poor, were the guardians mentioned in the principal Act and the common fund; and—

(*b.*) in cases where the assessment committee is appointed by the vestry be construed, so far as is consistent with the tenor thereof, as if the terms vestry, members of

Sect. 5. Note.

By the London Government Act, 1899 (62 & 63 Vict. c. 14), elective vestries in the county of London ceased to exist; and by sect. 13 of the same Act, where the whole of a poor law union is within one metropolitan borough, the assessment committee shall, notwithstanding anything in this section, be appointed by the borough council instead of by the board of guardians; and where the borough comprises the whole of two or more unions, the council shall appoint only one assessment committee for those unions; and where the council appoint the assessment committee the town clerk is to act as the clerk to that committee.

the vestry, vestry clerk, assistant vestry clerk, and monies applicable to the payment of the expenses of a vestry under the Metropolis Management Act, 1855, were respectively substituted for the terms board of guardians, guardians, clerk of the board of guardians, assistant clerk of the board of guardians, and common fund, but nothing in such Acts relating to *ex-officio* guardians shall have any application in the case of a vestry. Sect. 5. 18 & 19 Vict. c. 120.

Making of Valuation Lists.

VI. The overseers of every parish to which this Act extends, within the time in this Act mentioned, shall make and sign a valuation list of their parish in duplicate, in accordance with this Act. Making of valuation lists.

VII. After the valuation list is signed by the overseers the same proceedings shall be had as are directed by the seventeenth, eighteenth, nineteenth, twentieth, and twenty-first sections of the principal Act, subject to the alterations made by this Act. Valuation lists to be dealt with under 25 & 26 Vict. c. 103, ss. 17 to 21.

VIII. The overseers shall send one duplicate of the valuation list to the surveyor of taxes of the district at the same time that the other duplicate is deposited by them. The surveyor of taxes shall insert in the duplicate so sent to him the amount in his opinion of the gross value of the hereditaments comprised in such list where such amount differs from the amount Duplicate sent to surveyor of taxes.

Sect. 6. Note.

For "the time in this Act mentioned" see sect. 42, *post*.

Where there are no overseers the assessment committee may appoint some person to perform the duties of overseers (sect. 59 (4), *post*). But now by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 11 (1), the council of each metropolitan borough is constituted the overseers of every parish within the borough; provided that the town clerk shall have the powers, &c., of overseers with respect to the preparation of the lists of voters and of jury lists within the borough, and any document required to be signed by overseers may be signed by the town clerk.

It is not the duty of a vestry clerk to prepare a valuation list under this Act, but the vestry may appoint him to do so, and pay him a lump sum for his expenses and labour (*Reg.* v. *Cumberlege*, 2 Q. B. D. 366; 46 L. J. M. C. 214; 36 L. T. 700; 25 W. R. 605).

The totals of value of property exempt from sewers rate, and the extent of such exemption, must be ascertained and inserted in the valuation lists (Metropolis Management Act, 1875 (38 & 39 Vict. c. 33), s. 2).

Sect. 7. Note.

The valuation list will now be signed by the town clerk of the borough in which the parish is (see note to sect. 6, *supra*).

Sect. 8. Note.

For the deposit of the valuation list by the overseers, see the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 17.

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inserted by the overseers, and shall transmit the duplicate to the assessment committee within twenty-eight days after he has received the same.

Notice to occupier of alteration of value, &c.

IX. In each of the following cases, namely,

(1) Where the overseers of the parish insert in the valuation list some hereditaments not previously assessed, or raise the gross or rateable value of some hereditament above the value stated in the valuation list for the time being in force or (where there is no valuation list) in the then last assessment to the poor rate, or

(2) Where the assessment committee (otherwise than in determining an objection) alter a valuation list by inserting therein some hereditament, or by raising the gross or rateable value of some hereditament comprised therein,

the overseers shall immediately after the deposit or re-deposit of the list (as the case may be) serve on the occupier of such hereditament a notice of the gross and rateable value thereof inserted in the valuation list.

Notice to state time and mode of objection.

X. The notice of the deposit and re-deposit of the valuation list published by the overseers shall state the times at which and the mode in which objections are to be made.

Grounds on which persons may object before assessment committee.

XI. Objections may be made before the assessment committee by any person authorized by this Act and the Acts

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Note.

A metropolitan parish was regulated by a local Act under which a rate for the relief of the poor and other parish purposes was to be made by the vestry, and any person aggrieved was to apply to the guardians for relief, and if dissatisfied with their decision, might appeal after giving notice to the guardians. A valuation list was made by the overseers and settled by the assessment committee under this Act, in which certain property of the appellants was newly assessed, but no notice was given to the appellants as required by this section. The appellants appealed direct to quarter sessions, proceeding as in an appeal under 17 Geo. 2, c. 38. *Held* that the rate was still made under the local Act, although the valuation was to be in conformity with this Act, and that the proceeding not having been in conformity with the local Act, the quarter sessions had no jurisdiction; but it was doubted whether the valuation list was binding on the appellants, as no notice had been given them under this section (*Reg.* v. *Middlesex JJ.*, L. R. 7 Q. B. 653; 26 L. T. (N. S.) 902; 20 W. R. 774; 36 J. P. 727).

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For times of objection, see sect. 42 (3), *post*.

Note.

Sect. 11.

For objections which may be specified, see Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 18.

Note.

An objector may appear and be heard by an agent (*Reg.* v. *St. Mary Abbott's*, [1891] 1 Q. B. 378; 60 L. J. M. C. 52; 64 L. T. 240; 39 W. R. 278; 55 J. P. 502).

Where a notice of objection specifies an objection to the rateable

incorporated herewith to object who feels himself aggrieved by reason of the unfairness or incorrectness of the valuation of any hereditament, or by reason of the insertion or incorrectness of any matter in the valuation list, or by reason of the omission of any matter therefrom, or by reason of such a valuation list as is required by this Act not having been transmitted by the overseers to the assessment committee. The notice of objection shall specify the correction which the objector desires to be made.

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XII. A surveyor of taxes, and any ratepayer in the parish, shall have the same right of inspecting, copying, taking extracts from, and objecting to any valuation list which relates to his district or parish as is given to any person by this Act and the Acts incorporated herewith.

Surveyor of taxes, &c. may inspect, copy, and object to valuation list.

XIII. If the overseers of any parish fail to transmit such a valuation list as is required by this Act, the assessment committee shall appoint some person to make a valuation list, and may allow such person such remuneration in addition to his expenses as they think fit; and all expenses incurred by the assessment committee in pursuance of this section shall be paid by the guardians, and charged by them to such parish.

If overseers do not transmit list, committee to appoint a person to do so.

The person so appointed shall have for the purposes of this section the same powers and duties as overseers, and the valuation list so made shall be dealt with in like manner as if it had been duly made and transmitted by the overseers.

XIV. The assessment committee, within the time in this Act mentioned, shall revise the valuation list in accordance with this Act and the Acts incorporated herewith. When they have finally approved such valuation list, they shall cause the totals of the gross and rateable value in such list to be

Valuation list to be revised, certified, and sent to overseers, &c.

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value only, the assessment committee have no power, without the consent of the overseers, to hear an objection to the gross value (*Reg.* v. *London JJ., Ex parte East London Waterworks Co.*, [1897] 1 Q. B. 433; 66 L. J. Q. B. 262; 45 W. R. 247; 61 J. P. 229).

Sect. 11. Note.

See sect. 69, *post*, and the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 11.

Sect. 12. Note.

See sects. 6, 7, *ante*, and notes thereto.

Sect. 13. Note.

One certified duplicate must now be sent to the clerk of the London County Council instead of to the clerk of the Metropolitan Asylums Managers (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 44).

Sect. 14. Note.

As to time for revision of the list, see sect. 42 (4), *post*, and 25 & 26 Vict. c. 103, s. 21; as to time for sending approved lists to overseers, &c., see sect. 42 (8), *post*.

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ascertained and inserted in the list, and three members of the committee present at the meeting at which the list is finally approved shall sign at the foot thereof such declaration of approval and certificate of compliance with this Act as is contained in Part One of the second schedule to this Act. One duplicate, so certified, shall be sent to the clerk of the *managers of the metropolitan asylum district*, and the other duplicate to the overseers of the parish to which it relates.

Deposit of duplicate of list in each parish.

XV. The overseers of the parish, on receiving the duplicate of the valuation list so sent to them by the assessment committee, shall immediately deposit it in the place in which the rate-books of the parish are kept, and shall publish notice of such deposit, and of the time and mode of making appeals, and of the grounds on which an appeal is allowed by this Act to be made.

Deposit of list at office of the managers of metropolitan asylum district.

XVI. The certified valuation list so sent to the clerk of the *managers of the metropolitan asylum district* by the assessment committee shall be deposited at the office of such *managers*, and within the time in this Act mentioned shall be returned by such clerk to the same assessment committee.

Printing and distribution of totals of gross and rateable value in valuation list.

XVII. The clerk of the *managers of the metropolitan asylum district*, shall, within the time in this Act mentioned, cause the totals of the gross and rateable values of all the valuation lists to be printed, and a printed copy of all such totals to be sent to every assessment committee, and the overseers of every parish in the metropolis and in every county in which any parish to which any of such totals relate is situate, to the clerks of the peace for every such county to the Commissioner of the Metropolitan Police, the Corporation of the City of London, the *Metropolitan Board of Works*, every district board in the

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Note.

See sect. 22, and sect. 42 (9), (10), *post*, as to the time of sitting of special sessions to hear appeals, and sect. 30 and sect. 42 (12), (13), *post*, as to sitting of justices in quarter sessions to hear appeals.

Sect. 16.

Note.

For the words in italics now read "London County Council" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 44).

As to the time mentioned for the return of the list, see sect. 42 (11), *post*.

Sect. 17.

Note.

For the words in italics now read "London County Council" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 44 and s. 40 (8)).

As to the time mentioned for sending out a printed copy of totals, see sect. 42 (11), *post*.

The totals and extent of exemptions from sewers rates must be printed and sent with the other totals of gross and rateable value required to be sent by this section (Metropolis Management Act, 1875 (38 & 39 Vict. c. 33), s. 3).

metropolis, and the Poor Law Board. Every assessment committee, overseer, and ratepayer within the metropolis, and every such county shall respectively be entitled to have printed copies of such totals on payment of one penny for each copy of all the said totals. Sect. 17.

Appeals.—Special Sessions.

XVIII. In every petty sessional division in the metropolis the justices of the peace acting in and for such division shall, in every year at the time mentioned in this Act, hold a special sessions for hearing appeals under this Act against the valuation lists of the several parishes within such division. Holding of special sessions to hear appeals.

XIX. Any ratepayer and any overseers of a parish, so far as respects the valuation list of such parish, and any surveyor of taxes, so far as respects the valuation list of any parish in the petty sessional division, may, if he or they feel aggrieved by any decision of the assessment committee on an objection made with respect to the unfairness or incorrectness of the valuation of any hereditament included in such list, but not otherwise, appeal against such decision to the special sessions. The right to appeal to special sessions shall not deprive a person of any other right of appeal conferred on him by this Act. Persons entitled to appeal to special sessions.

XX. The justices in special sessions under this Act shall not hear any appeal touching any matter with respect to which notice of appeal to the *general assessment sessions* has been served in manner prescribed by this Act, and shall not hear any appeal touching any part or alter any part of the valuation list except the part relating to the value of an hereditament; and a decision of such justices and an alteration by them of the value of an hereditament in the valuation list of any parish shall affect only the rights of the ratepayers of such parish among themselves, and shall not of itself in any way alter the totals of the gross or rateable value of such list as settled by Extent of jurisdiction of special sessions.

As to the time mentioned for holding special sessions, see sect. 42 (10), *post*. Sect. 18. Note.

When an owner or lessee is assessed or pays the rates he is to be deemed a "ratepayer" within this section (Valuation (Metropolis) Amendment Act, 1884 (47 & 48 Vict. c. 5), s. 2). Sect. 19. Note.

For prescribed manner and time of serving notice of appeal, see sects. 33, 44 (12), *post*, and for grounds of appeal, see sect. 32, *post*. Sect. 20. Note

For "assessment sessions" now read "London quarter sessions" (see note to sect. 23, *post*).

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the assessment committee, but may form a reason for appeal against such totals to the *assessment sessions* and superior court as herein-after mentioned.

Powers of special sessions.

XXI. The justices in special sessions under this Act may adjourn their court from time to time, as may be necessary for the performance of their duties under this Act. They shall have with respect to the attendance and examination of witnesses, the taking of evidence, the keeping order in court, the enforcing their orders, and all matters necessary for the execution of their duties under this Act, the same powers and jurisdiction as if they were assembled in petty sessions.

Notice by special sessions of time of sitting.

XXII. The justices in special sessions shall send a written notice of the time and place at which they will hold a special sessions for the purpose of hearing appeals with respect to any parish to the overseers of such parish, who shall publish it as soon as it is received by them.

Appeals.—Assessment Sessions.

Court of general assessment sessions.

XXIII. For the purpose of hearing appeals under this Act against any valuation list in the metropolis, the justices of the peace appointed as herein-after mentioned shall at the time mentioned in this Act assemble and hold a court of *general assessment sessions* (in this Act referred to as the *assessment sessions*).

Appointment of members of general assessment sessions.

XXIV. *The justices who are to form the court of general assessment sessions shall be appointed annually as follows:*

1. *Three justices of the peace of the county of Middlesex* (*of*

Sect. 22. Note.

As to service of notices, see sect. 65, *post;* and as to publication of the notice in this section mentioned, see sect. 66, *post.*

Sect. 23. Note.

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 42 (10), it is provided that "the quarter sessions for the county of London shall be substituted for the general assessment sessions under the Valuation (Metropolis) Act, 1869, and have all the jurisdiction vested in those sessions, and shall exercise the same within the same area. Upon the hearing of any appeals in relation to property in the city of London, such two members of the court of quarter sessions of the city of London as may be appointed by that court for the purpose shall be entitled to attend and sit as members of the quarter sessions for the county of London." In the sections of this Act, therefore, which deal with the assessment sessions and the appeals thereto, there must now be substituted "the quarter sessions for the county of London" for the "assessment sessions."

Sect. 24. Note.

This section is now obsolete for the reasons appearing in the note to sect. 23, *supra.*

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whom the assistant judge of the court of the sessions of the peace of the said county shall be one) shall be appointed by the court of general quarter sessions or general sessions of the peace for the county of Middlesex.

2. *Two justices of the peace of the county of Surrey shall be appointed by the court of general or quarter sessions of the peace for the county of Surrey:*

3. *Two justices of the peace of the county of Kent shall be appointed by the court of general sessions for the county of Kent:*

4. *Two justices of the peace of the city of London shall be appointed by the court of the mayor and aldermen of the city of London in the inner chamber:*

The said justices shall be appointed in the month of October in every year, or at such other time as may be from time to time fixed by the appointing body. They shall hold office for twelve months beginning on the first of November, and any casual vacancy may be filled up by the appointing body.

Officers of general assessment sessions.

XXV. The justices in *assessment sessions* may from time to time appoint, with the consent of the Poor Law Board, a clerk, and other persons to assist them in the performance of their duties under this Act, and may assign him or them such remuneration and such duties as the Poor Law Board may approve.

Chairman, quorum, and powers of general assessment sessions.

XXVI. The justices in *assessment sessions* may from time to time appoint one of their own number to act as their chairman, who shall have a second or casting vote, and they may from

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Note.

Since the transfer of the jurisdiction of the assessment sessions to the London Quarter Sessions a special clerk is appointed for assessment appeals, who is styled "clerk of the court of quarter sessions in assessment appeals."

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Note.

See note to sect. 23, *ante*.

It seems (although there may be some doubt on the point) that this section is repealed by the provisions of the Local Government Act, 1888, which transfer the jurisdiction of the assessment sessions to the quarter sessions, and that the chairman of quarter sessions will act *ex officio* as chairman in assessment appeals, and that the practice generally of quarter sessions will prevail, by which the chairman has no casting vote, and the quorum is only two. (See Local Government Act, 1888 (51 & 52 Vict. c. 41), ss. 40 (2), 42, 100, 109, 117.)

The chairman and deputy chairman of the London Quarter Sessions are appointed by the Crown (Local Government Act, 1888, s. 42 (1)); and temporary deputies may be appointed by a Secretary of State (Quarter Sessions (London) Act, 1896 (59 & 60 Vict. c. 55), s. 2).

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time to time determine on their quorum so that it be not less than three.

The court of *general assessment sessions* may adjourn from time to time, as may be necessary for the performance of their duties under this Act, and (for the purpose of giving judgment only) from place to place in the metropolis. They shall with respect to the attendance and examination of witnesses, to the taking of evidence, to the keeping of order in court, to contempt of court, to the enforcement of their orders, and to all matters necessary for the execution of their duties under this Act, have the same jurisdiction and powers and be in the same position as a court of quarter sessions; and, subject to the express provisions of this Act, shall conduct their proceedings, be convened, and be in the same position, as near as may be, as if they were a court of quarter sessions.

Orders as to proceedings and recognizances on appeals.

XXVII. The justices in *assessment sessions* may, with the approval of one of Her Majesty's principal Secretaries of State make orders from time to time for the purpose of regulating the proceedings on appeals to them under this Act, and for determining the recognizances (if any) to be entered into by appellants in the case of appeals either to special sessions or to the *assessment sessions*.

Fees on appeals under Act.

XXVIII. The justices in *assessment sessions* may make a table of the fees which in their opinion should be paid to the clerks of special sessions and to the clerk of *assessment sessions* in the case of appeals under this Act, and shall lay such table before one of Her Majesty's principal Secretaries of State in the same manner as the justices at quarter sessions may make and lay before such Secretary of State a table of fees, and all the provisions of section thirty of the Summary Jurisdiction Act, 1848 (which section relates to a table of fees and to the prohibition of clerks taking other fees), shall apply in the case of a table of fees made, and the business done by the said clerks under this Act.

11 & 12 Vict. c. 43.

All fees paid in the case of appeals to the *assessment sessions* shall be paid to the account of the receiver of the metropolitan

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Sect. 27.

See note to sect. 23, *ante*.

Note.

Standing orders as to assessment appeals have been made by the London Quarter Sessions under this section, and will be found in Archbold's Poor Law, 15th ed., p. 985.

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See note to sect. 23, *ante*.

Note.

A table of fees was made under this section by the London Quarter Sessions, dated March 31st, 1890.

As to the metropolitan common poor fund, see the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), ss. 61—72.

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common poor fund, and shall be so paid and taken and accounted for in such manner as the Poor Law Board may from time to time by order prescribe.

Places for hearing appeals.

XXIX. The justices in *assessment sessions* shall from time to time appoint the place in the metropolis where the appeals relating to each parish in the metropolis are to be heard, and may, if they think fit, divide the metropolis into districts for the purpose of appeals, and appoint one or more places for every such district.

Public notice of times of holding courts to be given.

XXX. The justices in *assessment sessions* shall cause public notice to be given of the several times at which they will sit at the several places appointed for the hearing of appeals; such notice may be given under the hand of their clerk, and shall be given by advertisement in some newspaper circulating generally in the metropolis, and by sending a copy of such notice to every surveyor of taxes in the metropolis, to every assessment committee which would have a right to appeal at such court, and to the overseers of every parish to which any appeal relates, and to all the parties to the appeal.

The overseers shall publish the notice as soon as it is received by them.

Summons of certain officers as witnesses.

XXXI. The justices in *assessment sessions* may order any clerk to the Commissioners of Taxes, any surveyor of taxes, clerk of assessment committee, overseer, assistant overseer, or like officer in the metropolis to produce any documents relating to rates or taxes which such justices may consider necessary for determining an appeal, and do not relate to profits of trade or of concerns in the nature of trade.

Any person who refuses, after tender of a reasonable sum for his expenses, to obey any order under this section shall be liable (on summary conviction before the justices in *assessment sessions* or any other two justices) to a penalty not exceeding five pounds.

Sect. 29.

Note.

See note to sect. 23, *ante*.

For use of public rooms for hearing appeals, see sect. 63, *post*.

Sect. 30.

Note.

See note to sect. 23, *ante*.

As to time for hearing appeals, see sect. 42 (13), (14), *post*; and as to publication of notices by overseers, see sect. 66, *post*.

Sect. 31.

Note.

See note to sect. 23, *ante*.

Sect. 32.

Persons entitled to appeal to assessment sessions.

XXXII. Any ratepayer and any surveyor of taxes, and any overseer, with the consent of the vestry of his parish, who may feel aggrieved by any decision of the assessment committee, on an objection made before them to which he was a party, or by any decision of special sessions, whether he was a party or not, may appeal against such decision to the *assessment sessions*.

Any assessment committee in the metropolis, or in the county in which the parish to which the appeal relates is situate, any overseers in the metropolis or such county, with the consent of the vestry of their parish, any ratepayer in the metropolis or such county, and any body of persons authorized by law to levy rates or require contributions payable out of rates in the metropolis or such county, may appeal to the *assessment sessions*, if they or he feel aggrieved by reason—

(1) of the total of the gross value of any parish being too high or too low;

(2) of the total of the rateable value of any parish being too high or too low; or

(3) of there being no approved valuation list for some parish.

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Note.

See note to sect. 23, *ante*.

An appeal lies against any unfairness or incorrectness in the totals and extent of exemption from sewers rate, in the same manner as provided in this section for appealing against totals of gross or rateable value (Metropolis Management Act, 1875 (38 & 39 Vict. c. 33), s. 4).

An appeal will only lie from a decision of the assessment committee upon an objection, of which notice has been duly given to the committee (*Reg.* v. *London JJ., Ex parte East London Waterworks Committee*, [1897] 1 Q. B. 433; 66 L. J. Q. B. 262; 45 W. R. 247; 61 J. P. 229).

An owner or lessee who is assessed or pays the rates is to be deemed a "ratepayer" for the purposes of this section (Valuation (Metropolis) Amendment Act, 1884 (47 & 48 Vict. c. 5), s. 1).

There is no right of appeal to quarter sessions against totals upon the ground that particular hereditaments are assessed below their proper value (*London County Council* v. *St. George's Union*, [1894] A. C. 600; 64 L. J. Q. B. 48; 71 L. T. 409; 59 J. P. 116). And the reduction, on appeal by various ratepayers, of the values of specific hereditaments in the valuation list does not in itself alter the total gross and rateable values appearing in such list; such totals can only be altered by an appeal against the totals (*Reg.* v. *Woolwich Union*, [1891] 2 Q. B. 712; 60 L. J. Q. B. 665; 65 L. T. 460; 40 W. R. 155; 55 J. P. 552).

It is probable that the words in this section "or in the county in which the parish to which the appeal relates is situate" and "such county" are repealed by the operation of the Local Government Act, 1888, which, by sect. 40 (1), constituted the metropolis into the administrative county of London, by sect. 40 (2) severed from Middlesex, Surrey, and Kent, such parts of those counties as formed part of the county of London, and included them in the county of London, and by sect. 95 (2), provided that where any enactment refers to those counties, it shall be construed to apply to the same area as though that Act had not passed, except where inconsistent with the Act, or where the object of the enactment requires that it shall be construed to apply to the county of London.

Proceedings on Appeals.

Sect. 33.

Notice of appeal to special or assessment sessions.

XXXIII. Notice in writing of every appeal, whether to special sessions or the *assessment sessions*, specifying the correction which the appellant desires to have made in the valuation list, must be served, within the time in this Act mentioned, on the following persons: namely,

in all cases on the surveyor of taxes of the district to which the appeal relates, and on the clerk of the assessment committee which approved the list wholly or partly questioned by the appeal:

when the appeal relates to the unfairness or incorrectness of the valuation of, or to the omission of an hereditament occupied by any person other than the appellant, or to the incorrectness of any matter stated in the list with respect to any such hereditament, then on such person:

if an assessment committee or a surveyor of taxes is the appellant, then also on the overseers of the parish to which the appeal relates:

Provided that it shall not be necessary to serve any notice of appeal on the surveyor of taxes in any case in which the appeal relates only to the rateable value of any hereditament.

The clerk of the assessment committee, on receiving notice of an appeal, shall forthwith serve notice thereof on the clerk of the special sessions or of the *assessment sessions*, as the case may require.

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Note.

See note to sect. 23, *ante*.

As to the time for giving notice of appeal under this section, see sect. 42 (9), (12), *post*.

One appeal and one notice of objection may be brought or made in respect of several separately assessed hereditaments belonging to or occupied by one person (Valuation (Metropolis) Amendment Act, 1884 (47 & 48 Vict. c. 5), s. 3).

An assessment committee of a union appealed to the assessment sessions against the valuation list of the respondent parish, and against the total gross and rateable values appearing therein, and sought to have the total values increased by showing that the assessments in the list of a large number of specified hereditaments were too low. *Held* that the appeal did not "relate to the unfairness or incorrectness of the valuation of any hereditament occupied by any person other than the appellant" within the meaning of this section; that those words applied only to appeals in which it was objected that the valuation of particular hereditaments was unfair or incorrect so far as it affected the assessment of the ratepayers *inter se*; and that therefore the assessment committee need not serve notice of appeal under this section upon the occupiers of the specified hereditaments (*Reg.* v. *General Assessment Sessions*, 17 Q. B. D. 394; 35 W. R. 12; 50 J. P. 724). And it has been since held that an appeal does not lie against totals on the ground that particular hereditaments are assessed below their proper value (*London County Council* v. *St. George's Union*, *supra*, note to sect. 32).

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Sessions to hear and determine appeals and alter list accordingly.

XXXIV. The justices in special sessions and in *assessment sessions* respectively shall, in open court, hear and determine all appeals brought before them in such order as they may respectively from time to time appoint. They may adjourn the hearing from time to time, and to any day not later than the day before which all appeals to them are required by this Act to be heard; and in the case of *assessment sessions* for the purpose of obtaining the decision of any superior court to any day necessary for that purpose; and if from accident or mistake due notice of appeal has not been given, or if an additional notice of appeal appears to be required, they may, if they think it just, order notice of appeal to be given. They may confirm or alter the valuation list, so far as it is questioned by the appeal, in such manner as they think just, but shall not make any alteration in contravention of this Act. The clerk of the assessment committee, or some deputy allowed by the assessment committee, shall attend the court with the valuation list to which the appeal relates, and any alteration shall be made by the justice acting as chairman of the sessions in that list, and the said justice shall place his initials against such alteration.

Making of valuation list where none approved.

XXXV. If it appears to the justices in *assessment sessions* on any appeal that there is no approved valuation list of some parish they may appoint some proper person (with such remuneration as they may appoint) to make a valuation list. Such person shall have for that purpose the same powers and duties as overseers.

The valuation list so made shall be deposited and otherwise made known to the persons interested in such manner as the

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Note.

See note to sect. 23, *ante*.

For the day before which appeals are required to be heard, see sect. 42 (10), (13), *post*.

The London County Council appealed to quarter sessions against certain totals as being too low. By consent the totals were reduced and the justices were requested to enter judgment accordingly, and alter the totals in the valuation list. This they refused to do unless supplied with details showing how the new totals were arrived at. *Held* that the justices in regarding the incongruity between the altered totals and the detailed assessments, acted upon considerations which they should not have taken into account, and had therefore not heard and determined according to law (*Reg.* v. *Edlin*, 65 L. T. 83).

Sect. 35.

Note.

See note to sect. 23, *ante*.

As to the manner of depositing, &c., the list originally made, see sect. 7, *ante*, and the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), ss. 17, 21, 38.

As to the "expenses under the principal Act," see 25 & 26 Vict. c. 103, ss. 37—39.

court may direct, but in manner as near as may be as is provided in this Act with respect to the list originally made. Sect. 35.

The cost of making such valuation list shall be paid by the assessment committee who failed to approve the list, and shall be deemed part of their expenses under the principal Act.

Assessment sessions may, on application of party to appeal, order valuation.

XXXVI. If any of the parties to the appeal apply to the justices in *assessment sessions* to direct a valuation of any hereditament with respect to which any appeal may be made, and if such applicant or applicants give such security as the court think proper to pay the costs of the valuation, the court may, in their discretion, appoint some proper person to make such valuation.

Adjournment to receive valuation list or valuation.

XXXVII. Where the court appoint a person to make a valuation list or a valuation, they may fix some subsequent day, either before or after the day before which all appeals are required by this Act to be heard, for receiving such valuation list or valuation, and may adjourn the hearing to that day.

Valuation to be in writing,

XXXVIII. The person so appointed to make a valuation shall make his valuation in writing signed by him, showing the particulars of the hereditaments comprised therein, and the amounts at which he has valued the same respectively.

person making it to have power to enter.

Such person may at all reasonable times, with or without assistants, enter upon any of the hereditaments directed to be valued, and may do thereon all acts necessary for completing the valuation.

Costs of appeal.

XXXIX. The costs of any appeal, including the costs of any such valuation as aforesaid, shall be in the discretion of the

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See note to sect. 23, *ante*. Sect. 36.

As to the day before which appeals are to be heard, see sect. 42 (10), (13), *post*. Note. Sect. 37.

This section is very similar to sect. 4 of the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), under which it was held that the valuation required is only one which shall give the collective value of the hereditaments of each occupier (*Rawlence* v. *Hursley Union*, 3 Ex. D. 44; 47 L. J. M. C. 31; 37 L. T. (N. S.) 503; 42 J. P. 42). Note. Sect. 38.

See note to sect. 23, *ante*. Note.

The costs may be recovered under the provisions of the S. J. Act, 1848 (11 & 12 Vict. c. 43), s. 27, or of the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 18. Sect. 39.

As to payment of costs by parties other than a ratepayer, see sects. 48—50, *post*. Note.

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justices in special or *assessment* sessions (as the case may be), and shall be awarded by them to be paid by such parties to the appeal, and in such proportions, as they think just.

Costs (including the costs of making a valuation) so ordered to be paid may be recovered as if they had been awarded by a court of quarter sessions, and when ordered to be paid by parties other than a ratepayer shall be paid as in this Act mentioned.

Appeal from decision of assessment sessions on points of law.

XL. The same proceedings may be had by special case and *certiorari* or otherwise, for questioning any decision of the justices in *assessment sessions*, as may be had for questioning any decision of the justices in general or quarter sessions, provided that every such *certiorari* shall be sued out within three months after the decision is given.

At any time after notice given of appeal under this Act to the *assessment sessions*, it shall be lawful for the parties, by consent and by order of any judge of *one of the superior courts of common law at Westminster*, to state the facts of the case in the form of a special case for the opinion of any of those courts, and to agree that a judgment in conformity with the decision of that court, and for such costs as that court may adjudge, may be entered on the application of either party at the meeting of the justices in *assessment sessions* next or next but one after such decision has been given, and such judgment may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the *assessment sessions* upon an appeal duly brought before them and adjourned; and the justices shall, if necessary, hold a sessions or an adjourned sessions for this purpose.

Notice in writing of the decision of any superior court in pursuance of this section shall be served by the clerk of the *assessment sessions* on the assessment committee which approved the list questioned on the appeal to such court.

Notice of alteration of list to be sent to overseers.

XLI. Notice of every alteration in the valuation list, which alteration is made in consequence of any decision on any appeal to the special sessions, *assessment sessions*, or a superior court,

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See note to sect. 23, *ante*.

Note.

As to proceedings by special case in ordinary appeals, see the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 11.

For "one of the superior courts of common law at Westminster" now read "the High Court of Justice (Judicature Act, 1873 (36 & 37 Vict. c. 66), s. 16).

Sect. 41.

See note to sect. 23, *ante*.

Note.

For "managers of the metropolitan asylum district," now read "London County Council" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 44).

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shall, as soon as possible, be sent in writing by the clerk of the assessment committee to the overseers and surveyor of taxes of the parish and district respectively to which the list which is so altered relates, and such alteration shall be entered by the clerk of the assessment committee and by the overseers on the duplicates respectively deposited with them.

Notice of every alteration in the total of the gross and rateable value of any valuation list, which alteration is made in consequence of any decision on any appeal to the *assessment sessions* or a superior court, shall as soon as possible be sent in writing by the clerk of the assessment committee to the clerk of the *managers of the metropolitan asylum district*; and the clerk of such *managers* shall send in writing such altered total to every person and body of persons who has power to levy or make any rate or assessment or require any contribution based on such total.

Times for Proceedings.

Times within which proceedings in making valuation list are to be done.

XLII. With respect to the times within which proceedings under this Act and the Acts incorporated herewith are to be done, the following provisions shall have effect; that is to say,

(1) The overseers shall make and deposit the valuation list before the first day of June in the first year after the passing of this Act:

(2) The overseers shall transmit the valuation list to the assessment committee not sooner than fourteen and not later than seventeen days after notice is given of the deposit of such list:

(3) Notice of any objection by any person other than the surveyor of taxes and the overseers shall be given before the expiration of twenty-five days after the list is deposited:

(4) The assessment committee shall revise the valuation list before the first of October in the same year, and before the same day, but not less than sixteen days after the transmission of the list to them by the overseers, shall hold a meeting for hearing objections to such list:

(5) The assessment committee shall give notice of a meeting for hearing objections to a list not less than sixteen days before such meeting:

(6) Notice of objection with respect to any list by the surveyor of taxes and by the overseers shall be given not less than seven days before the meeting at which

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Note.

See sects. 6, 7, *ante*, and 25 & 26 Vict. c. 103, s. 17. Sub-s. (1).
See sect. 7, *ante*, and 25 & 26 Vict. c. 103, s. 17. Sub-s. (2).
See sect. 7, *ante*, and 25 & 26 Vict. c. 103, s. 18. Sub-s. (3).
See sect. 7, *ante*, and 25 & 26 Vict. c. 103, s. 19. Sub-s. (4).
See sect. 7, *ante*, and 25 & 26 Vict. c. 103, s. 19. Sub-s. (5).
See sects. 7, 12, *ante*, and 25 & 26 Vict. c. 103, ss. 18, 19. Sub-s. (6).

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objections to such list will be heard by the assessment committee :

(7) The assessment committee shall send the valuation list to be re-deposited within three days after it is approved by them, and shall appoint a day not less than fourteen nor more than twenty-eight days after such re-deposit for hearing objections to the alterations, of which objections seven days notice shall be given by the objector :

(8) The assessment committee shall finally approve and send the valuation list to the overseers, and the clerk of the *managers of the metropolitan asylum district*, before the first of November in the same year :

(9) Notices of appeal to special sessions shall be given on or before the twenty-first day of November in the same year :

(10) The justices may hold the special sessions at any time after the thirtieth of November in the same year, which will enable them to determine all appeals before the ensuing first of January :

(11) The clerk of the *said managers* shall send out the printed totals before the first of December in the same year, and shall return the valuation list to the assessment committee not sooner than fourteen nor later than twenty-one days after the totals are sent out :

(12) Notices of appeals to *assessment sessions* shall be given on or before the fourteenth of January in the same year :

(13) The justices may hold the *assessment sessions* at any time after the first of February in the same year, which will enable them to determine all appeals (except where a valuation list or valuation is ordered) before the ensuing thirty-first of March :

(14) Notice of the times at which the *assessment sessions* will be held at each place shall be given by the clerk ten days at least before the first court is held.

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Note.

Sub-s. (7). See sect. 7, *ante*, and 25 & 26 Vict. c. 103, s. 21.

Sub-s. (8). See sect. 14, *ante*.

For "managers, &c.," now read "London County Council" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 44).

Sub-s. (9). See sect. 33, *ante*.

Sub-s. (10). See sect. 18, *ante*.

Sub-s. (11). For "managers" now read "London County Council."

See sects. 16, 17, *ante*.

Sub-s. (12). See note to sects. 23, 33, *ante*.

Sub-s. (13). See note to sects. 23, 30, *ante*.

Sub-s. (14). See sect. 30, *ante*.

Generally. The dates in the above section with regard to the making, depositing, transmitting and approving the valuation list are directory and not imperative, and the acts directed may be validly

Effect of Valuation List.

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Duration of valuation list.

XLIII. The valuation list as approved by the assessment committee, and, if altered on any appeal under this Act to any sessions or a superior court, as so altered, shall come into force at the beginning of the year (commencing on the sixth of April) succeeding that in which it is made, and shall last for five years subject to any alterations that may be made by any supplemental or provisional list as herein-after mentioned.

Rate to be levied notwithstanding appeal.

XLIV. Notwithstanding any appeal under this Act which may be pending at the commencement of the year, the valuation list

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Note.

Sub-s. (14).

done at later dates. The court held that upon the true construction of the Act, and keeping in view its object, which was to have one uniform list every five years, it would be impossible to assume that the legislature intended that non-compliance with the provisions of this section should defeat the valuation list. The court would express no opinion; but it might be that an action would lie against the assessment committee, if through an intentional act on their part the right to appeal was destroyed by time (*Reg.* v. *Ingall*, 2 Q. B. D. 199; 46 L. J. M. C. 113; 35 L. T. (N. S.) 552; 41 J. P. 181).

Where an appeal was entered in due time to be heard at the February sessions, but owing to press of business the appeal could not be, and was not, heard before March 31st, as provided in sub-section (13), it was held that it might be heard after that date. But the court considered that where dates were fixed for the doing of any act by a party to an appeal, such dates were imperative (*R.* v. *London JJ.*, or *London County Council* v. *St. George's Union*, [1893] 2 Q. B. 476; 63 L. J. Q. B. 148; 69 L. T. 682; 58 J. P. 69; affirmed on another point in House of Lords, [1894] A. C. 600; 64 L. J. Q. B. 48; 71 L. T. 409; 59 J. P. 116).

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See sects. 46, 47, *post*, as to revision of the valuation list.

Note.

Sect. 44.

Note.

See note to sect. 23, *ante*. As to purposes for which list is conclusive see sect. 45, *post;* as to appeal to sessions, see sect. 34, *ante;* to a superior court see sect. 40, *ante*.

The rateable value of certain property having been re-assessed at a much higher sum, the owners appealed. Before the hearing of the appeal it was agreed that a special case should be stated for the opinion of the Queen's Bench Division, and that in the meantime rates should be paid on the former valuation, and these terms were embodied in an order made by Cave, J., on March 23rd, 1881. In 1883 the overseers applied to the magistrates for a distress warrant for the amount of the rates according to the new assessment, but the application was refused on the ground that as the appeal was still pending the overseers were bound by the order of Cave, J. The overseers then applied to the Queen's Bench Division for a *mandamus* to the magistrates to issue the warrant. *Held* that in consequence of the provisions of this section, which enacts that, pending any appeal from any new assessment, the rate shall be paid according to the new assessment, Cave, J., had no jurisdiction to make the order, and that the consent of the assessment committee to that order did not bind the overseers. *Held* also, that the application for a

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shall come into force unaltered, and every assessment contribution rate and tax in respect of which the valuation list is conclusive shall be made, required, levied and paid in accordance with such valuation list; and where in consequence of the decision on any appeal under this Act to *assessment sessions* or a superior court an alteration in such valuation list is made which alters the amount of the assessment contribution rate or tax levied thereunder, the difference, if too much has been paid, shall be repaid or allowed, and, if too little, shall be deemed to be arrears of the assessment contribution rate or tax (except so far as any penalty is incurred on account of arrears), and shall be paid and recovered accordingly.

Valuation list to be conclusive for purposes of certain rates, taxes, and qualifications.

XLV. The valuation list for the time being in force shall be deemed to have been duly made in accordance with this Act and the Acts incorporated herewith, and shall for all or any of the purposes in this section mentioned be conclusive evidence of the gross value and of the rateable value of the several hereditaments included therein, and of the fact that all hereditaments required to be inserted therein have been so inserted; that is to say,

(1) For the purpose of any of the following rates which are made during the year that the list is in force, namely, the county rate, the metropolitan police rate, the church rate, the highway rate, the poor rate, the police, sewers, consolidated and other rates in the city of London, the sewers, lighting, general, and other rates levied by order of district boards or vestries, the main drainage improvement and other rates, and sums assessed on any part of the metropolis by the *Metropolitan Board of Works*, assessments for contributions

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Sect. 44. Note.

mandamus was properly made under 11 & 12 Vict. c. 44, s. 5, the issue of the warrants being a merely ministerial, and not a judicial act (*Reg.* v. *Marsham*, 50 L. T. 142; 48 J. P. 308).

Upon a case stated by quarter sessions on an appeal by the plaintiff against a valuation list, the Court held that the plaintiff was not the rateable occupier of the premises, and was not liable to be rated in respect thereof. The vestry performing the duties of overseers having refused to repay to the plaintiff the amount of certain rates levied by them under the valuation list during the pendency of the appeal proceedings, the plaintiff brought an action against them to recover the sums so paid. *Held*, that although the effect of the appeal had been to strike the plaintiff's name altogether out of the valuation list, there had nevertheless been an alteration in the valuation list which altered the amount of the assessment, contribution, rate, or tax levied thereunder within the meaning of this section, and that the plaintiff was entitled to recover (*Burton* v. *St. Giles-in-the-Fields and St. George, Bloomsbury* (No. 2), [1901] 1 Q. B. 650.)

Sect. 45. Note.

For "Metropolitan Board of Works" in this section now read "London County Council" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 40 (8)).

under the Metropolitan Poor Act, 1867, and every other rate, assessment and contribution levied, made and required in the metropolis on the basis of value : Sect. 45. 30 & 31 Vict. c. 6.

(2) For the purpose of any of the following taxes which become chargeable during the year that the list is in force, namely,

(*a.*) The tax on houses levied under the House Tax Act, 1851, and the Acts therein incorporated or referred to : 14 & 15 Vict. c. 36, &c.

(*b.*) Any tax assessed in pursuance of the Income Tax Act, 1842, and any Acts continuing or amending the same, on any lands, tenements and hereditaments, in all cases where the tax is charged on the gross value, and not on profits : 5 & 6 Vict. c. 35, &c.

(3) For the purpose of determining, so far as it is applicable, the value of any hereditament included therein for the purposes of the Acts relating to the sale of excisable liquors, to the qualification of a juror, to the qualification of a vestryman, and an auditor of accounts under the Metropolis Management Act, 1855, and to the qualification of a guardian and of a manager under the Poor Law Amendment Act, 1834, or the Metropolitan Poor Act, 1867, at any time at which such value is required to be ascertained : 18 & 19 Vict. c. 120. 4 & 5 Will. 4, c. 76. 30 & 31 Vict. c. 6.

And in construing the Metropolitan Police Act, 1829, and the Acts amending the same, the last valuation for the time being acted upon in assessing the county rate shall be deemed to mean the valuation list for the time being in force : 10 Geo. 4, c. 44.

And in construing the County Rates Act, 1852, and Acts referring to the valuation, estimate, basis or standard for the county rate, the valuation, estimate, basis or standard shall be deemed to be the rateable value stated in such list : 15 & 16 Vict. c. 81, &c.

And in construing the House Tax Act, 1851, and the Acts therein incorporated or referred to, the full and just yearly rent shall be deemed to be the gross value stated in such list : 14 & 15 Vict. c. 36, &c.

And in construing the Income Tax Act, 1842, and any Acts continuing or amending that Act, with respect to schedules A. and B. thereof, annual value shall be deemed to mean the gross value stated in such list. 5 & 6 Vict. c. 35, &c.

Revision of Valuation List.

XLVI. Every valuation list shall be revised in manner directed by this Act, and such revision in every period of five Mode of revising valuation list. Sect. 46.

Where the mains and pipes of a waterworks company have been inserted in the quinquennial valuation list, a supplemental list under this section, incorporating the alterations appearing in a Note.

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years (the first of such periods beginning with the sixth of April one thousand eight hundred and seventy-one) shall be conducted as follows:

(1) In each of the first four years of such period a supplemental list shall, if necessary, be made out in the same form as the valuation list, and shall show all the alterations which have taken place during the preceding twelve months in any of the matters stated in the

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Note.

provisional list made under sect. 47, may be made during the period of five years so as to include an increase in the value of the mains by reason of their having been connected with new houses since the last valuation (*Reg.* v. *New River Co.* or *New River Co.* v. *Islington Assessment Committee*, 4 Q. B. D. 309; 48 L. J. M. C. 123; 40 L. T. 322; 43 J. P. 349).

Upon an appeal against a supplemental valuation list under the Valuation (Metropolis) Act, 1869, evidence of a falling off in receipts of tonnage rates on vessels coming to certain docks during the twelve months preceding the making of the supplemental list when the rates were the same, and which, as compared with former years, shows a continuous and not an accidental falling off, is sufficient, if not explained or rebutted, to show an alteration in the rateable value of the docks during that period within the meaning of this section. When such alteration has been established, and it has therefore to be entered in a supplemental list, the rateable value of the docks is to be ascertained, not by opening up the previous quinquennial or supplemental list, but by assuming the list then in force to be the correct value at the commencement of the twelve months preceding, and by deducting from it the diminution in value arising from the alteration during that period (*Reg.* v. *East and West India Dock Co.* or *Reg.* v. *Poplar Union*, 13 Q. B. D. 364; 53 L. J. M. C. 97; 51 L. T. 97; 48 J. P. 564).

The profits of the Royal Agricultural Hall Company, as shown by the accounts of four consecutive years, were diminishing by reason of, *inter alia*, the competition with other exhibitions. *Held* that such a diminution in profit was more than a merely temporary reduction in value, and amounted to an alteration in rateable value within the meaning of this section (*Royal Agricultural Hall Co.* v. *St. Mary, Islington, Assessment Committee*, Ryde's Rat. App., [1896—1890] p. 193).

To justify a new valuation under sects. 46 and 47 of this Act, the alteration in value must be such that, if the fact constituting the alteration had been present at the time of the original valuation, it could properly have been taken into consideration in arriving at the assessment, and the fact constituting the alteration in value should affect the hereditament in particular. A general rise in values would not be a fact constituting such an alteration. The fact, however, that the increase in value affects a class as a whole will not exclude the increase from the operation of these sections if it be shown that the increase in value arises from some cause affecting merely the class, and not from the cause of general prosperity affecting all classes of the community. In each case it is for those who seek to alter the assessment to prove the nature and cause of the alteration in value. The amount of a premium paid for a public-house is admissible in evidence on an appeal against the assessment (*Ellis* v. *Camberwell Union*, [1900] 1 Q. B. 68).

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valuation list, but shall contain only the hereditaments affected by such alterations. If no alteration has taken place which makes a supplemental list necessary, the overseers shall send a certificate to that effect to the assessment committee in place of such list, which certificate may be in the form contained in the second schedule to this Act:

(2) In the fifth year of every such period the overseers shall make a new valuation list:

(3) The same regulations shall be observed and the same proceedings shall be had in the case of a supplemental list and a new valuation list as are directed by this Act and the Acts incorporated herewith in the case of the valuation list made in the first year after the passing of this Act:

(4) A supplemental list and a new valuation list shall come into force at the beginning of the year succeeding that in which they are respectively made, in the same manner and subject to the same conditions as the valuation list made in the first year after the passing of this Act:

(5) In each of the last four years of such period the valuation list which was in force on the day before the commencement of each such year, together with and as altered by the supplemental list, if any, which comes into force at the commencement of such year, shall be the valuation list which is in force during that year:

(6) A new valuation list when it comes into force shall supersede the valuation list which was in force during the fifth year of such period.

Provision for valuing a house built between the times at which the valuation list is made.

XLVII. If in the course of any year the value of any hereditament is increased by the addition thereto or erection thereon of any building, or is from any cause increased or reduced in value, the following provisions shall have effect:

(1) The overseers of the parish in which such hereditament is situate may, and on the written requisition of the assessment committee or of any ratepayer of the union or of the surveyor of taxes for the district shall, send to the assessment committee a provisional list containing the gross and rateable value as so increased or reduced of such hereditament:

(2) A copy of the requisition shall be sent by the person making it to the clerk of the assessment committee, and if within fourteen days after the requisition has been served on the overseers they make default in sending such provisional list he shall forthwith

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Note.

Sub-ss. (1), (2).

See sect. 13, *ante*.

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summon the assessment committee, and the assessment committee shall appoint a person to make such provisional list, in the same manner as is in this Act provided in the case of the overseers failing to transmit a valuation list:

(3) On the receipt of the list the clerk of the assessment committee shall serve on the surveyor of taxes for the district a copy of the list, and shall serve on the occupier of any hereditament to which the list relates a copy of so much thereof as relates to that hereditament. Every copy shall be accompanied by a notice specifying a day, being not less than fourteen days after the date of the service of the notice on or before which any objection to the provisional list may be made, and stating the mode in which an objection is to be made. Such copy and notice shall be served in the same way as notices by an assessment committee are served:

(4) An objection may be made to any such provisional list by the said occupier, and by the surveyor of taxes, or by either of them, by notice thereof in writing being served on the clerk of the assessment committee, on the overseers, on the surveyor of taxes, and on the occupier, or on such of them as the case may require:

(5) The clerk of the assessment committee, on the receipt of the notice of any objection, shall forthwith summon a meeting of the committee, and give notice of the time and place of such meeting to the overseers, to the surveyor of taxes, and the occupier:

(6) The committee shall hear and determine on the objection in the same manner as if it were an objection to a valuation list, and may make such order as they think just:

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(7) If no objection is made, then on the expiration of the time for making objections, or if an objection is made

Note.

Sub-s. (3). See sect. 65, *post*.

Sub-s. (6). See sect. 11, *ante*, and the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 18.

Generally. Where overseers are of opinion that no alteration in value has taken place in a hereditament, the court will not compel them by *mandamus* to send to the assessment committee a provisional list containing the gross and rateable value of such hereditament in compliance with a requisition sent to the overseers under this section (*Reg.* v. *St. Mary, Bermondsey*, 14 Q. B. D. 351; 54 L. J. M. C. 68; 33 W. R. 414; 48 J. P. 38).

The words in this section "from any cause increased or reduced in value" are not confined to an increase or reduction caused by structural alterations in the hereditament, but a substantial diminution of profits is within the meaning of the section, and where a *primâ facie* case of such a diminution is made out, the

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then as soon as the assessment committee have determined on the objection, the assessment committee shall cause a copy to be made of the provisional list, with any alteration made in it by the committee, and shall return the list and the copy thereof, after being dated and signed by their clerk, to the overseers:

(8) A provisional list, signed as aforesaid, shall have operation from the date of the service by the clerk of the assessment committee of a copy of the list and notice on the occupier, and shall continue in force until the first list (supplemental or other) which is subsequently made comes into force:

(9) Upon a provisional list coming into operation the overseers shall make such entries in the rate-book for the then current poor rate as will bring the same into conformity with such list, and shall also enter therein the date at which such list is to come into operation, and shall charge the occupier of such hereditament with a proper proportion of such current poor rate, regard being had to the time which has elapsed between the making of such rate and the said date and to the rateable value stated in such provisional list, and such occupier shall be considered as actually rated for such sum from the said date, and be liable to pay the same, and the same may be enforced accordingly:

(10) A provisional list during the time that it is in force shall be deemed to form part of the valuation list for the time being in force, and shall (so far as is necessary) be substituted for so much of that valuation list as relates to the same hereditament, and every rate and tax in respect of which the valuation list is conclusive, which are respectively made or charged after the provisional list comes into force, and the proportion of the current rate charged as before provided in this section, shall be levied accordingly; but if when the next revision of the valuation list takes place the list as approved and altered on appeal contains a smaller value for the hereditament comprised in a provisional list than the value stated in such provisional list, the amount of

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Note.

assessment committee is bound, on default of the overseers, to appoint a person to make out a provisional list, and will, if necessary, be compelled by *mandamus* to do so (*Reg.* v. *St. Mary, Islington*, 19 Q. B. D. 529; 56 L. J. Q. B. 597; 57 L. T. 270; 35 W. R. 664; 51 J. P. 789).

An appeal does not lie to special sessions from the determination of the assessment committee on an objection to any provisional list made under this section; and it would appear also that no appeal lies to the London Quarter Sessions from such determination (*Fulham Union* v. *Wells*, 20 Q. B. D. 749; 57 L. J. M. C. 112; 59 L. T. 103; 36 W. R. 858; 52 J. P. 663).

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rate or tax which has been overpaid in consequence of the larger value having been stated shall be repaid or allowed:

(11) Nothing in this section shall affect the value on which any rate is made or sum is assessed or contribution required which is made, assessed, or required on the totals of the gross or rateable value of parishes or unions.

Expenses.

Costs of appeal, &c.

XLVIII. The costs of an appeal awarded against or incurred by any assessment committee or overseers shall be deemed to be expenses incurred under this Act and the Acts incorporated herewith, and shall be raised and paid accordingly.

Any costs or expenses awarded against or incurred by any surveyor of taxes shall be defrayed in the same manner as expenses are directed to be defrayed by the Acts relating to the taxes in respect of which the valuation list is made conclusive.

Allowances by Inland Revenue for expenses.

XLIX. The Commissioners of Inland Revenue may make such allowances as they think fit for remunerating any person employed by them in the execution of this Act, and for the discharge of any costs or expenses incurred by him.

Expenses.

L. The expenses of the *assessment sessions* and such remuneration as the *Poor Law Board* may from time to time allow to the clerk of the *managers of the metropolitan asylum district*, the clerk of the *assessment sessions*, and persons appointed to assist the *assessment sessions* as provided by this Act, and such costs and expenses incurred by such clerks and persons under this Act as the *Poor Law Board* may allow, after such audit as the *Poor Law Board* may direct, shall be paid by the receiver of the metropolitan common poor fund out of any monies for the time being in his hands, and shall be paid at such times and in such manner and upon such precept

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Sect. 48. Note.

As to the right of an assessment committee to appear as respondents to an appeal, and their right to costs, see sect. 62, *post*, and the Union Assessment Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 2, and *West Ham Assessment Committee* v. *Essex JJ.*, [1896] A. C. 443, cited in the note thereto.

For the taxes in respect of which the valuation list is made conclusive see sect. 45, *ante*.

Sect. 50. Note.

In this section for "assessment sessions" read "London Quarter Sessions" (Local Government Act, 1888, s. 42 (10)); for "managers of the metropolitan asylum district" read "London County Council" (Local Government Act, 1888, s. 44); and for "Poor Law Board" read "Local Government Board" (34 & 35 Vict. c. 70).

As to the metropolitan common poor fund, see the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), ss. 61—72.

of the *Poor Law Board* as the *Poor Law Board* may from time to time prescribe, and the *Poor Law Board* may require contributions for the purpose of raising such remuneration, expenses, and costs. Sect. 50.

Rules for Formation of Valuation List.

LI. The valuation list shall be made out in the form given in the second schedule to this Act. Form and contents of valuation list.

The overseers shall not include in such valuation list any hereditaments (except tithes or payment in lieu of tithes) which are charged according to rule two in section sixty of the Income

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Sect. 51.

Note.

Where there is any agricultural land in the parish within the meaning of the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), the form of valuation list will be that given in schedule (W. 2) of the Gen. Ord., July 28th, 1896.

Income Tax Act, 1842.

The following is Rule No. 2, in sect. 60 of the Income Tax Act, 1842 (5 & 6 Vict. c. 35), so far as it is still in force:—

The annual value of all the properties herein-after described shall be understood to be the full amount for one year, or the average amount for one year of the profits received therefrom within the respective times herein limited:—Second. Of all dues and money payments in right of the church or by endowment, or in lieu of tithes (not being tithes arising from lands), and of all teinds in Scotland, on the like average. Fourth. Of manors or other royalties, including all dues and other services, or other casual profits (not being rents or other annual payments reserved or charged), on an average of the seven preceding years to be charged on the lord of such manor or royalty, or person renting the same. Fifth. Of all fines received in consideration of any demise of land or tenements (not being parcel of a manor or royalty demisable by the custom thereof) on the amount so received within the year preceding by or on account of the party; provided that in case the party chargeable shall prove, to the satisfaction of the commissioners for general purposes in the district, that such fines, or any part thereof, have been applied as productive capital, on which a profit has arisen or will arise otherwise chargeable under this Act, for the year in which the assessment shall be made, it shall be lawful for the said commissioners to discharge the amount so applied from the profits liable to assessment under this rule. Sixth. Of all other profits arising from lands, tenements, hereditaments, or heritages not in the actual possession or occupation of the party to be charged, and not before enumerated, on a fair and just average of such number of years as the said commissioners shall, on the statement of the party to be charged, judge proper (except such profits as may be liable to deduction in pursuance of the ninth or tenth Rule in No. 4, herein-after mentioned), to be charged on the receivers of such profits, or the persons entitled thereto.

Exceptions and privileges.

Where a rate is made upon a charitable institution having a local Act, it must be made according to the exceptions and privileges given thereby, but the valuation list must be prepared showing the hereditament at its true value, without reference to any privilege (*Reg.* v. *Foundling Hospital*, L. R. 7 Q. B. 83; 41 L. J. M. C. 41; 25 L. T. (N. S.) 562; 35 J. P. 724).

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5 & 6 Vict. c. 35.

Tax Act, 1842, but shall include tithes and payments in lieu of tithes and every hereditament in their parish, and shall enter every hereditament in the valuation list in accordance with the classes mentioned in the third schedule to this Act, so that the deductions to be made in ascertaining the rateable value may be calculated in accordance with that schedule.

Deductions for rateable value.

LII. The percentage or rate of deductions to be made from the gross value in calculating the rateable value for the purposes of this Act shall not exceed the amounts in the third schedule to this Act, so far as the same are applicable.

Amount of gross value specified by the surveyor of taxes to be inserted, unless disproved.

LIII. When a surveyor of taxes gives notice of objection or of appeal, the amount specified in the notice as being in his judgment the gross value of any hereditament referred to in the notice shall be inserted in the valuation list by the assessment committee, special sessions, or *assessment sessions*, unless it is proved to the satisfaction of the assessment committee, special sessions, or *assessment sessions*, that such amount ought not to be so inserted.

Saving of exemptions and exceptional principles of valuation.

LIV. Nothing contained in this Act or the Acts incorporated herewith shall affect any exemption or deduction from or allowance out of any rate or tax whatever, or any privilege of or provision for being rated or taxed on any exceptional principle of valuation.

Returns.

Occupier to make returns.

LV. In every year in which a new valuation list is made, or in the month of March preceding any such year, every person who is liable to be charged with any rate or tax in respect of which the valuation list is made conclusive shall, when required, make to the overseers of his parish such statement or return as a person chargeable under the Income Tax Act, 1842, and the Acts amending the same is bound to make.

5 & 6 Vict. c. 35.

Surveyor of taxes to supply notices

LVI. For the purpose of securing the proper making of such returns, the surveyor of taxes shall in the month of February

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See note to sect. 23, *ante*.

Note.

Sect. 54.

See *Reg.* v. *Foundling Hospital* in note to sect. 51, *supra*.

Note.

Sect. 55.

As to the rates or taxes in respect of which the valuation list is made conclusive see sect. 45, *ante*.

Note.

As to returns under the Income Tax Act, 1842, see 5 & 6 Vict. c. 35, ss. 46—59.

By the Valuation (Metropolis) Amendment Act, 1884 (47 & 48 Vict. c. 5), s. 1, where an owner or lessee is liable to be assessed in place of the occupier or tenant, such owner or lessee shall make the returns required by this section.

preceding send to the overseers of each parish in his district a sufficient number of printed forms and notices, and the overseers, within a month after the receipt thereof, shall serve a notice and form on every person in their parish required by this Act to make a return; and every person required by this Act to make a return shall make it within twenty-one days after the service of a notice and form on him. Sect. 56. and forms for returns to overseers, who are to serve them.

The forms and notices shall be such as are prescribed by the Income Tax Act or the Acts amending the same, or as the Treasury may from time to time prescribe, and any such form duly filled up and signed shall be deemed to be a sufficient return. 5 & 6 Vict. c. 35.

The return shall be delivered to the overseers of each parish, and together with the valuation list shall be sent by them to the surveyor of taxes, and by the surveyor of taxes to the assessment committee.

LVII. An assessment committee may, by order, require any person who is the owner or occupier or reputed owner or occupier of any hereditament in their union to send them a return in writing of all or any of the following things; viz., of the rent receivable or payable by him (as the case may be) for such hereditament, and of the person entitled to any tithe rentcharge charged on such hereditament, and of the amount of the same, and of the several persons by whom any tithe rentcharge is paid to him, and of the amounts paid by each such person and of any other particulars respecting such hereditament as are required for the due execution of this Act and the Acts incorporated herewith. And every such owner or occupier shall obey such order within fourteen days after the service thereof on him. Assessment committee may require returns from owner and occupier.

LVIII. If any person wilfully refuses or neglects to make any return lawfully required under this Act within the times respectively limited by this Act in that behalf, he shall be liable, on summary conviction, to a penalty not exceeding five pounds. Penalty for no or false returns.

If any person wilfully makes or causes to be made a false return, he shall be liable, on summary conviction, to a penalty not exceeding ten pounds.

Miscellaneous.

LIX. With respect to any parish which is not included in any union of parishes, and in which there is no board of guardians, the following provisions shall have effect: Provision for cases where no guardians and where no overseers.

(1) The assessment committee of the adjoining union shall

Under this section the assessment committee of the united parishes of St. Giles-in-the-Fields and St. George's, Bloomsbury, acts for Lincoln's Inn; that of Holborn union for Gray's Inn; and that of the City of London union for the Inner and Middle Temple. Sect. 59. Note.

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act as the assessment committee of that parish, and where there is more than one such adjoining union the Poor Law Board shall determine the assessment committee which is to act for such parish :

(2) Every such parish shall, for the purposes of this Act and the Acts incorporated herewith, but not for any other purpose, be deemed to be within the union of the assessment committee which acts for it :

(3) The masters of the bench, treasurer, governors, or other body of persons in such parish, may, at the time appointed for the election of an assessment committee, appoint a person to be a member of such assessment committee in addition to the number elected under this Act and the Acts incorporated herewith :

(4) Where there are no overseers the assessment committee shall appoint some person to perform the duties of the overseers under this Act and the Acts incorporated herewith, and may award him such remuneration as they think fit ; and the person so appointed shall perform those duties and shall, for that purpose, have all the powers of overseers :

(5) A proportionate share of the expenses of the assessment committee under this Act and the Acts incorporated herewith, and any remuneration paid to or expenses incurred by the person appointed by them under this or any other section to make a valuation list, shall be charged on such parish, and the sums so charged shall be paid by the masters of the bench, treasurer, governor, or other body of persons ; and sections sixty-six, sixty-seven, and sixty-eight of the Metropolitan Poor Act, 1867, shall apply to such sums in the same manner as if the assessment committee and their clerk were the Poor Law Board and the receiver mentioned in those sections.

30 & 31 Vict. c. 6.

Provision where vestry are the overseers.

LX. Where the vestry or the guardians of any parish perform the duties of overseers with respect to a valuation list under this Act the list shall be signed by the vestry clerk or the clerk of the guardians.

Guardians may appoint a paid valuer to assist the assessment committee.

LXI. The guardians may, upon the application of the assessment committee, after notice sent in the manner required by the principal Act, appoint some competent person to assist the committee in the valuation of the hereditaments in the union

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Note.

See sect. 5, *ante*.

Sect. 61.

Note.

As to the notice herein referred to, see the Union Assessment Act, 1862 (25 & 26 Vict. c. 103), s. 16.

for such period as they see fit, at a salary or other settled remuneration, to be paid out of the common fund. Sect. 61.

LXII. Every assessment committee, with the consent of the guardians, and every overseer, with the consent of the vestry of his parish, may, for the purposes of any application for a valuation on any appeal, give security for paying the costs of such valuation. An assessment committee may give such security and may appear on any appeal by their clerk, and shall indemnify the said clerk against all monies, losses, and costs paid or incurred by him in consequence of such security or appearance. Assessment committee and overseers may give security for costs of valuation.

LXIII. Any room maintained out of the proceeds of any rate levied wholly or partly in the metropolis may (with the consent of the person or body corporate having the control of it) be used for hearing appeals, and for other purposes of this Act. Use of public room for appeals, &c.

LXIV. A valuation list may be proved by the production of a duplicate or copy of such list purporting to be certified to be a duplicate or a true copy by the clerk of the assessment committee that approved it, and such certificate shall state that the alterations (if any) made in the list in consequence of the decision on any appeal under this Act have been correctly made in the duplicate or copy so produced, and the clerk on application shall furnish a copy to any overseers on payment of a sum not exceeding the rate of three shillings for every hundred entries numbered separately. A provisional list may be proved by the production of a duplicate or copy thereof purporting to be certified to be a true copy by the clerk of the committee who signed it. Evidence of valuation list, &c.

LXV. All orders and notices under this Act and the Acts incorporated herewith shall be in writing or print, or partly in writing and partly in print, and if made or given by an assessment committee shall be sufficiently authenticated if signed by Service of notices, &c. by post, &c.

As to applying for a valuation see sect. 36, *ante*. Sect. 62.

Where the rule of the London Quarter Sessions, made in pursuance of sect. 27, *ante*, provided that "consents shall be signified by counsel in open court," this section was held not to give the clerk of an assessment committee the right to be heard on their behalf to consent to an alteration in the valuation list (*Reg.* v. *London JJ.*, [1896] 1 Q. B. 659; 65 L. J. M. C. 120; 74 L. T. 523; 44 W. R. 485; 60 J. P. 420). Note.

As to provisional lists see sect. 47, *ante*. Sect. 64.

Note.

As to meaning and effect of "service by post" see the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 26. Sect. 65.

Note.

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their clerk; and all orders, notices, and documents required by the same Acts to be served on or sent to any person or body of persons corporate or unincorporate may be either delivered to such person or the clerk of such body, or left at the usual place of abode of such person or clerk, or at the office of such clerk or body, or (if such abode or office cannot on reasonable inquiry be discovered) at the premises to which the order, notice, or document relates.

They may also be served and sent by post, by a prepaid letter addressed to such person, or to the office of such body or to their clerk, and, if sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and prepaid and put into the post.

Publication of notices by overseers.

LXVI. Any notice required by this Act to be published by the overseers shall, on the Sunday next following the receipt of such notice, or the document to which the notice refers, and the two following Sundays, be published by them in the manner in which notice of a rate allowed by justices is required to be published.

Inspection, &c. of documents deposited with rate-books.

LXVII. Where any documents are required by this Act to be deposited in the same place in a parish in which rate-books are kept, every ratepayer shall be at liberty to inspect and take copies of or extracts from such documents at any reasonable time, without fee or charge.

Valuation lists to be equivalent to rate-books of parish.

LXVIII. The duplicate of the valuation list, approved by the assessment committee, and sent to the overseers, as directed by this Act, the notices of alteration made on any appeal under this Act, and any provisional list, shall for all purposes be deemed to be part of the rate-books of the parish, and shall be produced by the overseers before the justices upon any application for allowance of rates, and on any appeal under this

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Sect. 66.

Note.

A poor rate is published by affixing a notice thereof previously to divine service on or near to the doors of all the churches and chapels within the parish; or if there is no church or chapel, by affixing it in some conspicuous place in the parish. (See the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 1; the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 2; and the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 4).

Sect. 67.

See sect. 15, *ante*.

Note.

Sect. 68.

For "managers of the metropolitan asylum district" now read "London County Council" (Local Government Act, 1888, s. 44).

Note.

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or any other Act, and on any other occasion if so required, on which they are bound to produce such rate-books, and any overseer who fails to produce such list in accordance with the provisions of this section shall be liable on summary conviction to a penalty not exceeding five pounds.

The duplicate of the valuation list returned to the assessment committee by the clerk of the *managers of the metropolitan asylum district*, and other documents in the possession of the assessment committee in pursuance of this Act, shall be kept at the board room or other convenient place from time to time appointed by the guardians of the same union, but shall be deemed to be in the possession of the assessment committee, and shall be produced by their clerk to the district auditor whenever required by him.

Ratepayer, &c. may inspect documents, &c. in hands of clerk of managers or assessment committee.

LXIX. Any ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes in the metropolis may, at all reasonable times, without payment, inspect and take copies of and extracts from all valuation lists and documents which in pursuance of this Act are under the control of the clerk of the *managers of the metropolitan asylum district*, or of the clerk of the *assessment sessions*.

Any surveyor of taxes and any guardian and any overseer in a union, without payment, and any ratepayer in a union on payment of a fee not exceeding one shilling (to be carried to the common fund), may at any reasonable time inspect and take copies of and extracts from any valuation lists, notices of objection, returns, and other documents in the possession or under the control of the assessment committee of that union.

Any clerk of an assessment committee in the metropolis may inspect and take extracts from any valuation lists in the possession or under the control of the assessment committee of any other union in the metropolis.

Any person who hinders a ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes from so inspecting or taking copies of or extracts from any valuation list or document, or demands where not authorized by this Act a fee for allowing him so to do, shall be liable on summary conviction to a penalty not exceeding five pounds for each offence.

[Sect. 70. *Owner where rated to be in position of occupier:* Repealed and replaced by the Valuation (Metropolis) Amendment Act, 1884 (47 Vict. c. 5), s. 2.]

Amendment of error in rate by two justices.

LXXI. Any person who feels aggrieved by reason of any clerical or arithmetical error in a rate in the metropolis may apply to two justices of the peace or a magistrate sitting at any police court in the metropolitan police district, who, after the applicant has given such notice to the overseers who made the

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Note.

For "managers of the metropolitan asylum district" now read "London County Council" (Local Government Act, 1888, s. 44).

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rate and such persons as such justices or magistrates think just, may hear the case in like manner as in the case of summary proceedings, and amend the rate so far as respects such error.

Omissions from the rate.

LXXII. Whenever the name of any person liable to be rated at the time the rate is made is omitted from any rate in the metropolis, or if any person is described in any such rate by a wrong name, the overseers may, after giving to such person seven clear days' notice of their intention, apply to any two justices or any police magistrate as aforesaid, who may hear the case in like manner as in the case of summary proceedings and insert the name so omitted, or correct the name so wrongly entered, and every such insertion and correction shall operate as if it had been part of the original rate: Provided that any person whose name is so inserted or corrected in any such rate may appeal against the same at the general quarter sessions of the peace which is holden next after such insertion or correction, in like manner as he might have appealed against the rate.

Form of rate and declaration.

LXXIII. Every poor rate made in the metropolis after the fifth of April one thousand eight hundred and seventy-one shall contain the particulars specified in the fourth schedule to this Act, together with such other particulars as the Poor Law Board may from time to time by order direct, and the overseers shall sign the form of declaration which is given in that schedule before the rate is allowed by the justices. And the justices shall not allow any rate at the foot of which the said declaration has not been added and signed.

Any overseer who wilfully omits to make the said declaration or makes the same falsely shall be liable on summary conviction to a penalty not exceeding five pounds.

Amendment of 25 & 26 Vict. c. 103, s. 11.

LXXIV. The entry of the proceedings of the assessment committee at any meeting, and of the names of the members who attend that meeting, may be signed by the chairman of the next meeting of the committee, and every entry and minute purporting to be so signed shall be received in evidence in the same manner as if such entry or minute had been signed by the chairman of the meeting at which the proceedings took place, and the members were present.

Saving of powers to value property not included in a valuation list.

LXXV. Nothing in this Act shall in any way alter or affect the mode of valuing or taxing any hereditament which is not included in any valuation list, or which is chargeable according to the profits and not according to the gross value, or the mode of charging the occupiers of land subject to a tithe rent-charge in respect of such tithe rent-charge.

Sect. 73. Note.

If there be any agricultural land in the parish within the meaning of the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), the form of rate will be that given in schedule (Y. 2) of the Gen. Ord., July 28th, 1896.

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Separate assessment of houses for purposes of house duty, income tax, and Licensing Acts.

LXXVI. Where for the purposes of the Acts relating to the duty on inhabited houses, or to the duties charged under schedule (B.) of the Income Tax Act, 1842, or to the sale of exciseable liquors, it is necessary to make a separate valuation of any hereditament by reason of its not being separately valued in any valuation list, the value of such hereditament shall be ascertained in the same manner as if this Act has not passed.

Repeal of Acts.

Repeal.

LXXVII. [**The enactments specified in the fifth schedule to this Act, and*] so much of any [* *other*] Acts, whether public or local and personal, as authorizes any valuation of hereditaments to be made for the purposes of any rate or tax in respect of which the valuation list is by this Act made conclusive, are hereby repealed, where they relate only to the metropolis absolutely, and in other cases so far as they relate to the metropolis : . . .

* Words in brackets repealed by the S. L. R. Act, 1883.

[First Schedule specified short titles of various Acts; now superseded by the Short Titles Act, 1896.]

SECOND SCHEDULE.

Sects. 14, 51.

PART I.

Valuation List for [*the parish or place for which the list is made*] in the Metropolitan Union of [*or* not being in Union] in the County of .

Number.	Name of Occupier.	Name of Owner.	Description of Property.	No. of Class.	Name or Situation of Property.	Extent.	Gross Value as estimated by Overseers.	Gross Value as estimated by Surveyor of Taxes.	Rate of Deduction per cent.	Rateable Value.	Gross Value as finally determined by Assessment Committee.	Rateable Value as finally determined by Assessment Committee.

Signed this day of .

A. B. } Overseers of the poor of the
C. D. } parish aforesaid.

We do hereby approve the above valuation list, and certify that in determining the gross and rateable value of the above

Schedules.

hereditaments the provisions of the Valuation (Metropolis) Act, 1869, have been duly complied with.

Signed this day of .

A. B., *C. D.*, *E. F.* } Members of the assessment committee of the union.

Note.—The two last of the above columns (for gross and rateable value as determined by assessment committee) must be filled up, and the totals of those columns must be added up after the objections to the alterations have (if any) been heard, and before the list is finally approved.

PART II.

Form of Certificate where no supplemental list is sent.

We, the overseers of the parish of , do hereby certify that no alteration has taken place in the matters stated in the valuation list of this parish which renders a supplemental list necessary.

A. B., *C. D.* } Overseers of the parish of .

Sects. 51, 52.

THIRD SCHEDULE.

Showing the several Classes into which the Hereditaments inserted in a Valuation List under this Act are to be divided.

	Maximum Rate of Deductions.
	Per cent. or Proportion.
Class 1. Houses and buildings, or either of them, without land other than gardens where the gross value is under 20*l.* - - - - - -	25 or $\frac{1}{4}$th.
,, 2. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 20*l.* and under 40*l.* - - - - - -	20 or $\frac{1}{5}$th.
,, 3. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 40*l.* or upwards - - - - - -	$16\frac{2}{3}$ or $\frac{1}{6}$th.

THIRD SCHEDULE—*continued.* Schedules.

	Maximum Rate of Deductions.
	Per cent. or Proportion.
Class 4. Buildings without land which are not liable to inhabited house duty and are of a gross value of 20*l.* and under 40*l.* - - - - -	20 or $\frac{1}{5}$th.
„ 5. Buildings without land which are not liable to inhabited house duty and are of a gross value of 40*l.* or upwards - - - - -	$16\frac{2}{3}$ or $\frac{1}{6}$th.
„ 6. Land with buildings not houses -	10 or $\frac{1}{10}$th.
„ 7. Land without buildings - - -	5 or $\frac{1}{20}$th.
„ 8. Mills and manufactories - - -	$33\frac{1}{3}$ or $\frac{1}{3}$rd.
„ 9. Tithes, tithe commutation rent-charge, and other payments in lieu of tithe - - - - - - -	To be determined in each case according to the circumstances and the general principles of law.
„ 10. Railways, canals, docks, tolls, waterworks and gasworks - - -	
„ 11. Rateable hereditaments not included in any of the foregoing classes -	

The maximum rate of deductions prescribed in this schedule shall not apply to houses or buildings let out in separate tenements, but the rate of deductions in such cases shall be determined as in Classes 9, 10, and 11.

FOURTH SCHEDULE. Sect. 73.

Form of Rate.

Rate for the Relief of the Poor of the Parish of in the Union, and for other purposes chargeable thereon, according to law, made this day of in the year of our Lord 18 , after the rate of in the pound, which is estimated to meet all the expenses for the above purposes which will be incurred before the of next.

No.	Name of Occupier.	Name of Owner.	Description of Property rated.	Name or Situation of Property.	Rateable Value.	Rate at in the Pound.

Schedules.

Declaration to be Added to the Rate.

We, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Valuation (Metropolis) Act, 1869, and now in force in this parish (*or* township), and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list, and do declare that the total of the above rate amounts to pounds shillings and pence.

} Churchwardens.

} Overseers.

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FIFTH SCHEDULE.*

* * * * *

Date of Act.	Title of Act.
25 & 26 Vict. c. 102 -	The Metropolis Management Amendment Act, 1862 - in part; namely, So much of sections six, seven, and thirteen as authorizes or relates to the ascertaining the value of any hereditament with respect to the value of which the valuation list is conclusive, and so much of any Act as applies the provisions hereby repealed.
* *	* * *

* Repealed by the S. L. R. Act, 1883, except as to the repeal of so much of any Act as applies the provisions hereby repealed of 25 & 26 Vict. c. 102.

METROPOLITAN BOARD OF WORKS (LOANS) ACT, 1869.

32 & 33 VICT. CHAP. 102.

An Act for making further provision respecting the borrowing of Money by the Metropolitan Board of Works, and for other purposes connected therewith. [11th August, 1869.]

* * * * *

XXXVII. Where the managers of the metropolitan asylum district require to borrow money under the Metropolitan Poor Act, 1867, and the Acts amending the same, such managers may borrow and the *board* may lend on the security authorized by those Acts such sums as the managers may have been authorized by the *Poor Law Board*, in pursuance of those Acts, to borrow not exceeding in the whole five hundred thousand pounds.

Loans by board to managers of metropolitan asylum district.

30 & 31 Vict. c. 6.

For the purpose of raising the money so lent to the managers, the *board* may create consolidated stock under the provisions of this Act, in like manner and with the like sanction as they may create the same for the purpose of raising money for the purposes of the Acts mentioned in the first schedule to this Act, and all the provisions of this Act shall apply as if such money were raised and stock were created for the purposes of the last-mentioned Acts, with this exception, that the money required in pursuance of this section may be borrowed by the *board* in addition to the sum limited by this Act.

All sums received by the *board* from the said managers in respect of interest on or the principal of such loan shall be carried to the metropolitan consolidated loans fund.

Notwithstanding anything in the Metropolitan Poor Act, 1867, and the Acts amending the same, the amount so lent by the *board* shall be repaid to them by the said managers, with interest, within such period not exceeding sixty years as may

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Note.

For the "board" now read "London County Council" (51 & 52 Vict. c. 41, s. 40 (8)).

For "Poor Law Board" now read "Local Government Board" (34 & 35 Vict. c. 70).

The provisions enabling the managers of the metropolitan asylum district to borrow money under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), contained in sect. 17 of that Act, are repealed and replaced by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2.

The provisions of this section are extended to enable borrowing by the School Board for London by the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 58.

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be agreed upon between the *board* and the said managers, subject to the approval of the Treasury.

The *board* may lend and the managers may borrow money in pursuance of this section for the purpose of repaying any loan due at the passing of this Act from the said managers.

The *board* and the said managers may execute all such deeds and documents and do all such acts as may be necessary or expedient for carrying this section into effect.

* * * * *

DISSOLVED BOARDS OF MANAGEMENT AND GUARDIANS ACT, 1870.

33 & 34 VICT. CHAP. 2.

An Act to make provision for the proceedings of Boards of Management and Boards of Guardians upon the dissolution of Districts and Unions or the annexation of Parishes to Unions.* [25th March, 1870.]

[*Preamble.*]

Powers of acting guardians after dissolution of district.

[I.] When the Poor Law Board shall have dissolved or shall dissolve any district the component parts whereof shall not have been formed into one union, or shall have dissolved or shall dissolve any union, or shall have added or shall add any parish in which the relief to the poor shall be or shall have been administered by a board of guardians to a union or to another parish, the persons who were acting as managers or guardians at the time of the dissolution or addition, and the survivors of them, shall continue in office for the purpose of paying and discharging the debts and liabilities of such district, union or parish, and of receiving and recovering monies or other property due to the said district, union, or parish, as the case may be, in like manner as the board of management or board of guardians could have done if no dissolution or addition had taken place; and the said managers or guardians shall be empowered to make all necessary orders for contributions upon the unions and parishes comprised within the district

* For "Poor Law Board" in this Act now read "Local Government Board" (34 & 35 Vict. c. 70).

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Note.

The power of dissolving unions and adding parishes to unions or parishes for poor law purposes is conferred on the Local Government Board by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66; the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 4; and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 11.

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or union so dissolved, or upon the proper authorities of the parish so added, as the case may require, and to enforce the same as the board of management or board of guardians could have done previous to the dissolution or addition respectively; provided that the limitation of time for the payment of debts imposed by the Poor Law (Payment of Debts) Act, 1859, shall not apply to the cases of districts or unions dissolved or of parishes added to a union before the passing of this Act, where such limitation had not taken effect previous to the dissolution or addition thereof as aforesaid; and provided that no such managers or guardians shall be empowered to act in the manner aforesaid for a longer period than twelve months from the date of the dissolution or addition, unless the Poor Law Board by their order shall authorize them to continue to act for some special purpose.

22 & 23 Vict. c. 49.

Continuance of officers.

II. The said managers or guardians may retain the services of such of the officers of the board of management or board of guardians respectively as they shall deem requisite to enable them to complete the liquidation and discharge of the debts and liabilities of the union, district, or parish, or appoint others to assist them, with such remuneration and for such time only as the Poor Law Board shall approve.

Continuance of actions, suits, or other proceedings.

III. All actions, suits, or other proceedings commenced by or against the board of management or board of guardians prior to the dissolution or addition aforesaid, may be continued by or against the said last acting managers or guardians in the name of the board of management or board of guardians, as the case may be, except where the several parts of a district shall have been or shall be formed into one union, in the manner provided for by the second section of the Metropolitan Poor Amendment Act, 1869, and all the costs incurred by or adjudged against such managers or guardians in any such action, suit or other proceeding, and not otherwise recovered, shall be chargeable to the same fund as if the action, suit, or proceeding had been determined before the dissolution or addition.

32 & 33 Vict. c. 63.

Poor Law Board upon notice from

IV. Upon notice from the manager or guardians, as the case may be, that all the current debts and liabilities of the district

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Note.

By the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 10, a separate rate may be levied on part of a parish only for the purpose of giving effect to an adjustment by the Local Government Board; and by sect. 11 the Board may dispense with an adjustment if it appears inexpedient or unnecessary.

For the matters that may be taken into consideration upon an adjustment between unions where part of one union is added to another under the Local Government Act, 1894, see *Rochdale Union* v. *Haslingden Union*, [1899] 1 Q. B. 540.

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managers, &c. to make adjustment.

4 & 5 Will. 4, c. 76.

32 & 33 Vict. c. 63.

or union have been liquidated and discharged, or when the Poor Law Board shall otherwise deem it expedient, the said board shall proceed to make such adjustment of the rights and liabilities of the several unions or parishes contained in such district of union respectively as is provided for by the thirty-second section of the Poor Law Amendment Act, 1834, and the first section of the Metropolitan Poor Amendment Act, 1869.

When union formed, acting guardians, &c. to continue till guardians are elected.

V. Upon the issue of the order of the Poor Law Board forming a union of two or more parishes, in which the relief to the poor has been administered by a board of guardians, the last acting guardians or overseers respectively shall continue to administer such relief in the parish or parishes respectively until the guardians for the union shall be completely elected.

Accounts of last acting guardians, &c. to be audited.

VI. The accounts of the last acting managers or guardians and of their officers and of the overseers shall be audited in the like manner and for the like purpose and with the like effect and by the same auditor as if the dissolution or addition had not taken place.

As to payment of loans contracted and still due.

VII. If when a district or union has been or shall be dissolved there remain unpaid any instalment or instalments of a loan or loans contracted under the provisions of any Act of Parliament by the managers or guardians or such district or union, every such instalment and all interest on such loan or loans not discharged before the expiration of the time within which the said last managers or guardians respectively can act shall from time to time after the same shall severally have become due be paid by such board or boards of managers or guardians as the Poor Law Board by their order shall direct, and the amounts shall be charged against the same parishes and in the same proportions as they would have been had no such dissolution taken place; and if when a parish has been or shall be added to a union or to another parish there remain unpaid any such instalment or instalments of any such loan or loans as aforesaid contracted by the guardians of the poor of the said parish, every such instalment and all interest on such loan or loans not discharged within such time as aforesaid shall from time to time after the same shall severally become due be paid out of the poor rates

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Sect. 6. Note.

For provisions as to audit, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32; and the District Auditors Act, 1879 (42 & 43 Vict. c. 6).

Sect. 7. Note.

For the sale of property of unions and parishes, see the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 3, as extended by the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 17, and amended by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*d*).

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of the said parish by the overseers or other body or persons who make and levy the said rates; and the parties to whom any such instalment or interest shall be due shall have in all respects the same remedies for the recovery thereof against the managers or guardians so directed as aforesaid to pay the same, or against the overseers or other body or persons as aforesaid, as the case may be, as they severally had against the managers or guardians who originally contracted the loan in respect of which such instalment or interest is payable: Provided that nothing herein contained shall prevent the instalments and interest or balance of any such loan from being discharged out of the produce of the sale of any property belonging to any district or union at the time of the dissolution, or to any parish at the time of its being added to the union.

Deeds and other matters relating to the relief of the poor transferred to new board of guardians.

VIII. All deeds, bonds, covenants, indentures, orders of justices, or other matters affecting any poor persons, apprentices, or officers entered into by or made upon or in favour of any board of guardians of a parish which shall be added to a union, shall vest in and enure to the benefit of or shall be a charge upon the guardians of the union to which such parish shall have been added without any assignment, transfer, or other act; and all securities, deeds, orders, books of account, and other documents relating thereto, shall, when required by said guardians, be delivered to them by the persons having the custody thereof; and all such deeds (other than the title deeds to property), bonds, indentures, orders of justices, or other documents and matters as aforesaid belonging to any dissolved district or union shall be preserved in such custody and shall be open to inspection in such manner as the Poor Law Board shall by their order from time to time direct.

Superannuation allowances and compensations to be paid by guardians of unions.

IX. Every superannuation allowance granted by a board of guardians in conformity with the provisions of the statute applicable thereto, and every compensation ordered by the Poor Law Board to be paid to any officer by or on account of any parish, whether part of any dissolved union or not, shall, when such parish has been added to or formed with another into a union, be paid by the guardians of such union to the person entitled thereto and charged by them to the account of such parish.

[Sect. 10. *Sect.* 20 *of the Poor Law Amendment Act*, 1867 (30 & 31 *Vict.* c. 106), *extended to a parish added to another parish to form a union:* Repealed by the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50).]

Sect. 9. Note.

The "statute applicable thereto" is now the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50); the previous Acts which regulate superannuation allowances granted before that Act are 27 & 28 Vict. c. 42, and the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), ss. 1—3, now repealed with a saving of existing rights.

Sect. 11.

Provision for the valuations of property on dissolution, separation, or amalgamation of unions and districts.

XI. When any district or union has been or shall be dissolved, or any parish has been or shall be added to or separated from a union, or any unions or parishes added to or separated from a district or part of it, or any parish has been or shall be added to another parish to form a union, and a valuation shall become requisite for the adjustment of the rights and liabilities of the districts, unions, or parishes affected thereby, such valuation shall be procured by the managers, guardians, or overseers of the districts, unions, or parishes respectively, in such manner as the parties interested shall mutually agree upon, or by the Poor Law Board in case of their not agreeing within such time as the board shall fix, which board shall direct the expenses incurred in procuring the same to be charged to the districts, unions, parishes, or parts thereof respectively, according as they shall be interested therein, in such proportions as to the said board shall seem to be equitable; and every person in whose favour such direction shall have been given shall be entitled to recover the amount from the persons directed to pay the same, by action in like manner as any debt recoverable at law.

Vesting of property of dissolved unions, &c. in last acting managers or guardians until sold, &c. under sect. 3 of 5 & 6 Will. 4, c. 76.

XII. Upon the dissolution of any district or union, or the addition of any parish in which the relief to the poor shall have been or shall be administered by a board of guardians to a union or to another parish, the real and personal estate vested in the managers or guardians of such district, union, or parish respectively shall be transferred to and vested in the persons who were acting as managers or guardians respectively at the time of such dissolution or addition, to be held by them as joint tenants, according to the nature of such property, in trust for the parishes comprised in such district or union, or for the parish, as the case may be, until the same shall be sold, let or otherwise disposed of under the authority of the third section of the Union and Parish Property Act, 1835, and any Act extending the same: Provided, that nothing herein contained shall apply to any parish provided for by the fifth section of the Metropolitan Poor Amendment Act, 1869, or by a local Act.

32 & 33 Vict. c. 63.

Construction. 4 & 5 Will. 4, c. 76.

XIII. The words used in this Act shall be construed in like manner as in the Poor Law Amendment Act, 1834, and in the subsequent Acts amending and extending the same.

Short title.

XIV. This Act may be cited and described for all purposes as "The Dissolved Boards of Management and Guardians Act, 1870."

Sect. 11. Note.

The workhouse of a dissolved incorporation may be appropriated by the guardians of a union formed under the Poor Law Amendment Act, 1834, for the common purposes of the union (*Woodbridge* v. *Colnies and Carlford*, 13 Q. B. 269).

METROPOLITAN POOR AMENDMENT ACT, 1870.

33 & 34 VICT. CHAP. 18.

An Act to provide for the equal distribution over the Metropolis of a further portion of the charge for the Relief of the Poor. [20th June, 1870.]

Maintenance of indoor poor to be a charge upon the metropolitan common poor fund.

30 & 31 Vict. c. 6.

I. The provisions of the sixty-ninth section of the Metropolitan Poor Act, 1867, directing the repayment of the expenses incurred for the maintenance of lunatics and insane poor, and of patients in any asylum specially provided under that Act for patients suffering from fever and small-pox, shall extend to the expenses incurred for the maintenance of paupers in any other asylum now or hereafter to be provided under the said Act, and to the maintenance of paupers above the age of sixteen years in any workhouse in the metropolis, and the Poor Law Board shall, by its precept under seal, direct the receiver of the common poor fund to repay such expenses out of that fund, in the same manner as the expenses specified in that section, subject, nevertheless, to the following provisions :—

(1) The Poor Law Board shall certify the maximum number of paupers to be maintained in any workhouse or asylum.

(2) No repayment shall be made in respect of a greater number of paupers maintained in any asylum or any one day than will complete the maximum number which such asylum shall have been certified to hold as aforesaid, nor in respect of a greater number of paupers maintained in any workhouse on any one day than will, together with the children under the age of sixteen, if any, maintained therein on the same day, complete the maximum number certified for such workhouse.

(3) The amount so repaid in respect of such maintenance

Sect. 1.

Note.

For "Poor Law Board" now read "Local Government Board" (34 & 35 Vict. c. 70).

The Local Government Board are empowered to order the alteration or enlargement of workhouses by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 25; the provision in workhouses of proper drainage, sewers, ventilation, fixtures, furniture, surgical and medical appliances, and other conveniences by the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 8, and the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 8; and the provision of furniture, &c., and medical appliances in metropolitan asylums by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), ss. 20, 22.

Sect. 1.

shall be at the rate of fivepence per day for each pauper in such workhouse or asylum.

(4) If the guardians of any union or parish, or the managers of any asylum, shall, during any half-year ending at Lady Day or Michaelmas respectively, have refused or neglected to comply with any order of the Poor Law Board, issued under the Poor Law Acts, directing the alteration or enlargement of the workhouse, the provision of proper drainage, sewers, ventilation, fixtures, furniture, surgical and medical appliances, or directing the appointment of any officer, or prescribing the maximum number of paupers to be maintained in any workhouse or asylum, or the classification of such paupers, such guardians or managers shall be deemed to be in default, and the Poor Law Board may, if they think fit, omit from their precept for such half-year, addressed to the receiver of the common poor fund, the sums which such guardians or the guardians of the unions and parishes comprised in the district to which the asylum belongs, would have been entitled to be repaid under this Act if there had been no such default: Provided that if such guardians or managers shall comply with such order before the termination of the next ensuing half-year, it shall be lawful for the Poor Law Board to include in their precept for that half-year the sums so omitted from their precept for the previous half-year.

Salaries of officers to include cost of rations.

II. The term "salaries of officers," referred to in the said sixty-ninth section of the said Metropolitan Poor Act, 1867, shall include the costs of the rations of the officers therein described, according to a scale to be fixed by the Poor Law Board.

Financial statement of guardians.

III. Within one month of each audit of the accounts of the board of guardians of any union or parish in the metropolis, such board shall deliver, by post or otherwise, to each vestry within such union or parish, one or more copies of the financial statement of such guardians, showing the receipts, expenditure, balances, and liabilities for the half-year, as audited.

Construction.

Short title.

IV. This Act shall be construed in like manner as the Metropolitan Poor Act, 1867, and shall be termed "The Metropolitan Poor Amendment Act, 1870."

Sect. 2.

Note.

In calculating superannuation allowances to officers upon the "emoluments" of which they were in receipt, the money value of apartments, rations, or other allowances in kind appertaining to their offices is taken into account (Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50), s. 19).

FORFEITURE ACT, 1870.

33 & 34 VICT. CHAP. 23.

An Act to abolish Forfeitures for Treason and Felony, and to otherwise amend the Law relating thereto.

[4th July, 1870.]

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Conviction for treason or felony to be a disqualification for offices, &c.

II. Provided nevertheless, that if any person hereafter convicted of treason or felony, for which he shall be sentenced to death, or penal servitude, or any term of imprisonment with hard labour, or exceeding twelve months, shall at the time of such conviction hold any military or naval office, or any civil office under the Crown or other public employment, or any ecclesiastical benefice, or any place, office, or emolument in any university, college, or other corporation, or be entitled to any pension or superannuation allowance payable by the public, or out of any public fund, such office, benefice, employment, or place shall forthwith become vacant, and such pension or superannuation allowance or emolument shall forthwith determine and cease to be payable, unless such person shall receive a free pardon from Her Majesty, within two months after such conviction, or before the filling up of such office, benefice, employment, or place if given at a later period; and such person shall become, and (until he shall have suffered the punishment to which he had been sentenced, or such other punishment as by competent authority may be substituted for the same, or shall receive a free pardon from Her Majesty), shall continue thenceforth incapable of holding any military or naval office, or any civil office under the Crown or other public employment, or any ecclesiastical benefice, or of being elected, or sitting, or voting as a member of either House of Parliament, or of exercising any right of suffrage or other Parliamentary or municipal franchise whatever within England, Wales, or Ireland.

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Sect. 2. Note.

For other disqualifications for being a guardian or voting at an election of guardians, see Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 14; Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 14; Corrupt Practices Act, 1883 (46 & 47 Vict. c. 51), ss. 6 (3), (4), 10, 11; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70); Public Bodies Corrupt Practices Act, 1889 (52 & 53 Vict. c. 69), s. 2; Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46.

PAUPER CONVEYANCE (EXPENSES) ACT, 1870.

33 & 34 VICT. CHAP. 48.

An Act for removing doubts respecting the payment of Expenses incurred in the Conveyance of Paupers in certain cases not expressly provided for by Law.

[9th August, 1870.]

[*Preamble.*]

Poor Law Board to define cases in which guardians may pay expense of conveying paupers.

[I.] The Poor Law Board may, by order, define and direct in what cases (other than those expressly provided for by law), and under what regulations, the guardians of any union or parish may pay the reasonable expenses incurred by them in conveying any person chargeable to such union or parish from one place to another in England, and may charge such expenses upon the common fund of the union or other like fund under their control.

Short title and interpretation.

4 & 5 Will. 4, c. 76.

II. This Act may be cited as "The Paupers Conveyance (Expenses) Act, 1870," and shall be construed in like manner as the Poor Law Amendment Act, 1834, and the subsequent Acts amending or explaining the same.

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Note.

For "Poor Law Board" now read "Local Government Board."

An order of the Local Government Board dated February 7th, 1898, allows the guardians to pay the reasonable expenses of the conveyance of parents or relatives for the purpose of visiting inmates of the following classes of institutions:—

Workhouse, separate workhouse infirmary, or separate workhouse school; district school; certified school; metropolitan asylum; county idiot asylum; hospital, institution, or licensed house under the Idiots Act, 1886; lunatic asylum; blind or deaf and dumb asylum; house not being a workhouse, with respect to which the Local Government Board has issued regulations, &c., under the Poor Relief Act, 1849 (12 & 13 Vict. c. 13).

Such expenses will not be payable unless permission to visit has been given by the guardians, and recorded in their minutes; but in urgent cases the master of the workhouse and the relieving officer may be authorized to give such permission, and report the case to the guardians.

ELEMENTARY EDUCATION ACT, 1870.

33 & 34 VICT. CHAP. 75.

An Act to provide for public Elementary Education in England and Wales. [9th August, 1870.]

Preliminary.

I. This Act may be cited as "The Elementary Education Act, 1870." Short title.

II. This Act shall not extend to Scotland or Ireland. Extent of Act.

III. In this Act— Definition of terms.

The term "metropolis" means the places for the time being within the jurisdiction of the Metropolitan Board of Works under the Metropolis Management Act, 1855 :

The term "borough" means any place for the time being subject to the [Municipal Corporations Act, 1882,] and the Acts amending the same :

[The words in brackets are substituted for 5 & 6 Will. 4, c. 76, by 45 & 46 Vict. c. 50, s. 242.]

The term "parish" means a place for which for the time being a separate poor rate is or can be made :

[See sect. 77, *post*, and the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 12.]

The term "person" includes a body corporate :

The term "Education Department" means "the Lords of the Committee of the Privy Council on Education" :

The term "Her Majesty's inspectors" means the Inspectors of Schools appointed by Her Majesty on the recommendation of the Education Department :

The term "managers" includes all persons who have the management of any elementary school, whether the legal interest in the schoolhouse is or is not vested in them :

The term "teacher" includes assistant teacher, pupil teacher, sewing mistress, and every person who forms part of the educational staff of a school :

The term "parent" includes guardian and every person who is liable to maintain or has the actual custody of any child :

[See the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 7, for the persons who are liable to maintain a child.]

The term "elementary school" means a school or department of a school at which elementary education is the

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principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction, from each scholar, exceed ninepence a week :

[So much of this definition as requires that elementary education shall be the principal part of the education given in an elementary school is not to apply to evening schools: Education Code (1890) Act, 1890 (53 & 54 Vict. c. 22), s. 1.]

The term "schoolhouse" includes the teacher's dwelling-house, and the playground (if any) and the offices and all premises belonging to or required for a school :

The term "vestry" means the ratepayers of a parish meeting in vestry according to law :

[See the Vestries Act, 1818 (58 Geo. 3, c. 69) and the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5.]

The term "ratepayer" includes every person who, under the provisions of the Poor Rate Assessment and Collection Act, 1869, is deemed to be duly rated :

[See 32 & 33 Vict. c. 41, s. 19.]

The term "Parliamentary grant" means a grant made in aid of an elementary school, either annually or otherwise, out of monies provided by Parliament for the civil service, instituted "For public education in Great Britain."

(I.) LOCAL PROVISION FOR SCHOOLS.

School districts, &c. in schedule.

IV. For the purposes of this Act the respective districts, boards, rates and funds, and authorities described in the first schedule to this Act shall be the school district, the school board, the local rate, and the rating authority.

Supply of Schools.

School district to have sufficient public schools.

V. There shall be provided for every school district a sufficient amount of accommodation in public elementary schools (as herein-after defined) available for all the children resident in such district for whose elementary education efficient and suitable provision is not otherwise made, and where there is an insufficient amount of such accommodation, in this Act referred to as "public school accommodation," the deficiency shall be supplied in manner provided by this Act.

Supply of schools in case of deficiency.

VI. Where the Education Department, in the manner provided by this Act, are satisfied and have given public notice that there is an insufficient amount of public school accommodation

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Sect. 6. Note.

See the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), s. 5.

for any school district, and the deficiency is not supplied as herein-after required, a school board shall be formed for such district and shall supply such deficiency, and in case of default by the school board the Education Department shall cause the duty of such board to be performed in manner provided by this Act.

Regulations for conduct of public elementary school.

VII. Every elementary school which is conducted in accordance with the following regulations shall be a public elementary school within the meaning of this Act; and every public elementary school shall be conducted in accordance with the following regulations (a copy of which regulations shall be conspicuously put up in every such school); namely,

(1) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs:

(2) The time or times during which any religious observance is practised or instruction in religious subjects is given at any meeting of the school shall be either at the beginning or at the end or at the beginning and the end of such meeting, and shall be inserted in a time table to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every schoolroom; and any scholar may be withdrawn by his parent from such observance or instruction without forfeiting any of the other benefits of the school:

(3) The school shall be open at all times to the inspection of any of Her Majesty's inspectors, so, however, that it shall be no part of the duties of such inspector to inquire into any instruction in religious subjects given at such school, or to examine any scholar therein in religious knowledge or in any religious subject or book:

(4) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual Parliamentary grant.

Proceedings for Supply of Schools.

Determination by Education

VIII. For the purpose of determining with respect to every school district the amount of public school accommodation, if

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Department of deficiency of public school accommodation.

any, required for such district, the Education Department shall, immediately after the passing of this Act, cause such returns to be made as in this Act mentioned, and on receiving those returns, and after such inquiry, if any, as they think necessary, shall consider whether any and what public school accommodation is required for such district, and in so doing they shall take into consideration every school, whether public elementary or not, and whether actually situated in the school district or not, which in their opinion gives, or will when completed give, efficient elementary education to, and is, or will when completed be, suitable for the children of such district.

Notice by Education Department of public school accommodation required.

IX. The Education Department shall publish a notice of their decision as to the public school accommodation for any school district, setting forth with respect to such district the description thereof, the number, size, and description of the schools (if any) available for such district, which the Education Department have taken into consideration as above mentioned, and the amount and description of the public school accommodation, if any, which appears to them to be required for the district, and any other particulars which the Education Department think expedient.

If any persons being either—

(1) Ratepayers of the district, not less than ten, or if less than ten being rated to the poor rate upon a rateable value of not less than one-third of the whole rateable value of the district, or,

(2) The managers of any elementary school in the district,

feel aggrieved by such decision, such persons may, within one month after the publication of the notice, apply in writing to the Education Department for and the Education Department shall direct the holding of a public inquiry in manner provided by this Act.

At any time after the expiration of such month, if no public inquiry is directed, or after the receipt of the report made after such inquiry, as the case may be, the Education Department may, if they think that the amount of public school accommodation for the district is insufficient, publish a final notice stating the same particulars as were contained in the former notice, with such modifications (if any) as they think fit to make, and directing that the public school accommodation therein mentioned as required be supplied.

Formation of school board and requisition to provide schools.

X. If after the expiration of a time, not exceeding six months, to be limited by the final notice, the Education Department are satisfied that all the public school accommodation required by

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Sect. 10. Note.

With regard to the provision to be made for blind and deaf children, see the Elementary Education (Blind and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42).

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the final notice to be supplied has not been so supplied, nor is in course of being supplied with due despatch, the Education Department shall cause a school board to be formed for the district as provided in this Act, and shall send a requisition to the school board so formed requiring them to take proceedings forthwith for supplying the public school accommodation mentioned in the requisition, and the school board shall supply the same accordingly.

Proceedings on default of school board.

XI. If the school board fail to comply with the requisition within twelve months after the sending of such requisition in manner aforesaid, they shall be deemed to be in default, and if the Education Department are satisfied that such board are in default they may proceed in manner directed by this Act with respect to a school board in default.

Formation of school boards without inquiry upon application.

XII. In the following cases, (that is to say,)

(1) Where application is made to the Education Department with respect to any school district by the persons who, if there were a school board in that district, would elect the school board, or with respect to any borough, by the council;

(2) Where the Education Department are satisfied that the managers of any elementary school in any school district are unable or unwilling any longer to maintain such school, and that if the school is discontinued the amount of public school accommodation for such district will be insufficient,

the Education Department may, if they think fit, without making the inquiry or publishing the notices required by this Act before the formation of a school board, but after such inquiry public or other, and such notice as the Education Department think sufficient, cause a school board to be formed for such district, and send a requisition to such school board in the same manner in all respects as if they had published a final notice.

An application for the purposes of this section may be made by a resolution passed by the said electing body after notice published at least a week previously or by the council, and the provisions of the second part of the second schedule to this Act with respect to the passing of such resolution shall be observed.

Proceedings by Education Department after the first year.

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XIII. After the receipt of any returns under this Act subsequently to the first with respect to any school district, and after

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (2), the power of making an application or passing a resolution given by this section to the electing body is in rural parishes transferred to the parish meeting.

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such inquiry as the Education Department think necessary, the Education Department shall consider whether any and what public school accommodation is required in such district in the same manner as in the case of the first returns under this Act, and where in such district there is no school board acting under this Act they may issue notices and take proceedings in the same manner as they may after the receipt of the first returns under this Act, and where there is a school board in such district they shall proceed in manner directed by this Act.

Management and Maintenance of Schools by School Board.

Management of school by school board.

XIV. Every school provided by a school board shall be conducted under the control and management of such board in accordance with the following regulations:

(1) The school shall be a public elementary school within the meaning of this Act:

(2) No religious catechism or religious formulary which is distinctive of any particular denomination shall be taught in the school.

Appointment of managers by school board.

XV. The school board may, if they think fit, from time to time delegate any of their powers under this Act except the power of raising money, and in particular may delegate the control and management of any school provided by them, with or without any conditions or restrictions, to a body of managers appointed by them, consisting of not less than three persons.

The school board may from time to time remove all or any of such managers and within the limits allowed by this section add to or diminish the number of or otherwise alter the constitution or powers of any body of managers formed by it under this section.

Any manager appointed under this section may resign on giving written notice to the board. The rules contained in the third schedule to this Act respecting the proceedings of bodies of managers appointed by a school board shall be observed.

Neglect by board of regulations of public elementary schools.

XVI. If the school board do or permit any act in contravention of or fail to comply with the regulations according to which a school provided by them is required by this Act to be conducted, the Education Department may declare the school board to be and such board shall accordingly be deemed to be a board in default, and the Education Department may proceed accordingly, and every act or omission of any member of the school board or manager appointed by them, or any person under the control of the board, shall be deemed to be permitted by the board, unless the contrary be proved.

If any dispute arises as to whether the school board have

done or permitted any act in contravention of or have failed to comply with the said regulations, the matter shall be referred to the Education Department, whose decision thereon shall be final. Sect. 16.

XVII. Every child attending a school provided by any school board shall pay such weekly fee as may be prescribed by the school board, with the consent of the Education Department, but the school board may from time to time, for a renewable period not exceeding six months, remit the whole or any part of such fee in the case of any child when they are of opinion that the parent of such child is unable from poverty to pay the same, but such remission shall not be deemed to be parochial relief given to such parent. Fees of children.

XVIII. The school board shall maintain and keep efficient every school provided by such board, and shall from time to time provide such additional school accommodation as is, in their opinion, necessary in order to supply a sufficient amount of public school accommodation for their district. Maintenance by school board of schools and sufficient school accommodation.

A school board may discontinue any school provided by them, or change the site of any such school, if they satisfy the Education Department that the school to be discontinued is unnecessary, or that such change of site is expedient.

If at any time the Education Department are satisfied that a school board have failed to perform their duty, either by not maintaining or keeping efficient every school provided by them, or by not providing such additional school accommodation as in the opinion of the Education Department is necessary in order to supply a sufficient amount of public school accommodation in their district, the Education Department may send them a requisition requiring them to fulfil the duty which they have

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Sect. 17. Note.

This section is materially affected by the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), which by sect. 8 provides that nothing in this section shall prevent a school board from admitting scholars to any school provided by the board without requiring any fee.

School fees in arrear cannot be recovered by action (*London School Board* v. *Wright*, 12 Q. B. D. 578; 53 L. J. Q. B. 266; 50 L. T. 606; 32 W. R. 577).

With respect to the payment by guardians of school fees of children of poor parents who are not paupers, see the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 10; and as to the granting of relief by guardians to enable outdoor pauper children to attend school, see sect. 40 of that Act and the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), s. 5.

Sect. 18. Note.

By the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), s. 5, "public school accommodation" in this section includes public school accommodation without payment of fees.

As to a school board in default, see sects. 63—66, *post*.

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so failed to perform; and if the school board fail within the time limited by such requisition, not being less than three months, to comply therewith to the satisfaction of the Education Department, such board shall be deemed to be a school board in default, and the Education Department may proceed accordingly.

Powers of school board for providing schools.

XIX. Every school board for the purpose of providing sufficient public school accommodation for their district, whether in obedience to any requisition or not, may provide, by building or otherwise, schoolhouses properly fitted up, and improve, enlarge, and fit up any schoolhouse provided by them, and supply school apparatus and everything necessary for the efficiency of the schools provided by them, and purchase and take on lease any land, and any right over land, or may exercise any of such powers.

Compulsory purchase of sites.

XX. With respect to the purchase of land by school boards for the purposes of this Act the following provisions shall have effect; (that is to say,)

Regulations as to the purchase of land compulsorily.

(1) The Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions relating to access to the

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Note.

Schoolrooms provided under this Act may also be used for taking the poll at Parliamentary elections, by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 6; at county council elections, by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 75; for elections and other purposes under the Local Government Act, 1894 (56 & 57 Vict. c. 73), by ss. 4 and 48 (3) of that Act; and for meetings in connection with allotments by the Allotments Act, 1890 (53 & 54 Vict. c. 65), s. 5. The provisions of this section also extend to any offices required by the school board for London (35 & 36 Vict. c. 27, s. 1).

The schools are liable to be assessed to poor and local rates (*Reg.*, or *West Bromwich School Board* v. *West Bromwich Overseers*, 13 Q. B. D. 929; 53 L. J. M. C. 153; 52 L. T. 162; 32 W. R. 866; 48 J. P. 808); and in assessing to the poor rate schools occupied by a school board which can make no profit in a commercial sense as tenant of the schools, the school board itself ought to be considered as a possible tenant, and the gross and rateable values calculated by the rent which the board might reasonably be expected to pay for the premises for use as schools (*Reg.* v. *London School Board*, 17 Q. B. D. 738; 55 L. J. M. C. 169; 55 L. T. 384; 34 W. R. 583; 50 J. P. 419; and see *Charlton-on-Medlock, Overseers*, v. *Chorlton Union*, 51 L. J. Q. B. 458; 47 L. T. 96).

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Note.

Amended by the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 15.

The issue and confirmation of a provisional order for the compulsory purchase of land imposes no obligation on the school board to purchase the land. The notice under sub-sect. (2) (*b*) of this section creates no contract between the parties (*Burgess* v. *Bristol Urban Sanitary Authority*, 50 J. P. 455). A school board who have obtained

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special Act: and in construing those Acts for the purposes of this section the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean the school board, and land shall be construed to include any right over land:

(2) The school board, before putting in force any of the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, shall—

Publication of notices.

(*a.*) Publish, during three consecutive weeks in the months of October and November, or either of them, a notice describing shortly the object for which the land is proposed to be taken, naming a place where a plan of the land proposed to be taken may be seen at all reasonable hours, and stating the quantity of land that they require; and shall further,

Service of notices.

(*b.*) After such publication, serve a notice in manner mentioned in this section on every owner or reputed owner, lessee or reputed lessee, and occupier of such land, defining in each case the particular land intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such land;

(*c.*) Such notice shall be served—

(*a.*) By delivery of the same personally on the person required to be served, or, if such person is absent abroad, to his agent; or

(*b.*) By leaving the same at the usual or last known place of abode of such person as aforesaid, or by forwarding the same by

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Note.

an order under this section, may erect schools which will interfere with the light and air of neighbouring premises if they are willing to pay compensation for depriving the owner of his rights and serve the proper notices on him (*Clark* v. *London School Board*, L. R. 9 Ch. 120; 43 L. J. Ch. 421); and may use land which they acquire by agreement, for statutory purposes without regard to any restrictive covenants affecting the land, to the same extent as though the land had been compulsorily acquired. The only remedy of persons whose lands are injuriously affected thereby is to obtain compensation under sect. 68 of the Lands Clauses Consolidation Act, 1845 (*Kirby* v. *Harrogate School Board*, [1896] 1 Ch. 437; 65 L. J. Ch. 396; 74 L. T. 6; 44 W. R. 144). So a school board who have acquired land under an order are not bound by the provisions of the Metropolis Management and Building Acts Amendment Act, 1878 (41 & 42 Vict. c. 32), as to observing the line of building (*London County Council* v. *London School Board*, [1892] 2 Q. B. 606; 40 W. R. 604).

The fourth schedule to this Act is repealed by the S. L. R. Act, 1893. The School Sites Acts herein referred to are those of 1841 (4 & 5 Vict. c. 38), of 1844 (7 & 8 Vict. c. 37), of 1849 (12 & 13 Vict. c. 49), and of 1851 (14 & 15 Vict. c. 24).

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post in a registered letter, addressed to the usual or last known place of abode of such person.

Petition to Education Department.

(3) Upon compliance with the provisions contained in this section with respect to notices the school board may, if they think fit, present a petition under their seal to the Education Department, praying that an order may be made authorizing the school board to put in force the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, so far as regards the land therein mentioned; the petition shall state the land intended to be taken and the purposes for which it is required, and the names of the owners, lessees, and occupiers of land who have assented, dissented, or are neuter in respect of the taking of such land, or who have returned no answer to the notice, and shall be supported by such evidence as the Education Department may from time to time require:

(4) If, on consideration of the petition and proof of the publication and service of the proper notices, the Education Department think fit to proceed with the case, they may, if they think fit, appoint some person to inquire in the district in which the land is situate respecting the propriety of the proposed order, and also direct such person to hold a public inquiry:

(5) After such consideration and proof, and after receiving a report made upon any such inquiry, the Education Department may make the order prayed for, authorizing the school board to put in force with reference to the land referred to in such order the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as they may think fit, and it shall be the duty of the school board to serve a copy of any order so made in the manner and upon the persons in which and upon whom notices in respect of the land to which the order relates are required by this Act to be served:

No order valid until confirmed by Parliament.

(6) No order so made shall be of any validity unless the same has been confirmed by Act of Parliament; and it shall be lawful for the Education Department, as soon as conveniently may be, to obtain such confirmation, and the Act confirming such order shall be deemed to be a public general Act of Parliament:

(7) The Education Department in case of their refusing or modifying such order, may make such order as they think fit for the allowance of the costs, charges, and

expenses of any person whose land is proposed to be taken of and incident to such application and inquiry respectively:

Costs how to be defrayed.

(8) All costs, charges, and expenses incurred by the Education Department in relation to any order under this section shall, to such amount as the Commissioners of Her Majesty's Treasury think proper to direct, and all costs, charges, and expenses of any person which shall be so allowed by the Education Department as aforesaid shall, become a charge upon the school fund of the district to which such order relates, and be repaid to the said Commissioners of Her Majesty's Treasury or to such person respectively, by annual instalments not exceeding five, together with interest after the yearly rate of five pounds in the hundred, to be computed from the date of any such direction of the said commissioners, or allowance of such costs, charges, and expenses respectively upon so much of the principal sum due in respect of the said costs, charges, and expenses as may from time to time remain unpaid.

The School Sites Acts *as defined in the fourth schedule to this Act* shall apply in the same manner as if the school board were trustees or managers of a school within the meaning of those Acts, and land may be acquired under any of the Acts mentioned in this section, or partly under one and partly under another Act.

Purchase of land by managers of public elementary school.

XXI. For the purpose of the purchase by the managers of any public elementary school of a schoolhouse for such school, or a site for the same, "The Lands Clauses Consolidation Act, 1845," and the Acts amending the same, (except so much as relates to the purchase of lands otherwise than by agreement,) shall be incorporated with this Act; and in construing those Acts for the purpose of this section the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean such managers, and land shall be construed to include any right over land.

The conveyance of any land so purchased may be in the form prescribed by the School Sites Acts, or any of them, with this modification, that the conveyance shall express that the land shall be held upon trust for the purposes of a public elementary school within the meaning of this Act, or some one of such purposes which may be specified, and for no other purpose whatever.

Land may be acquired under the Acts incorporated with this section, or under the School Sites Acts, or any of them, or partly under one and partly under another Act.

Any persons desirous of establishing a public elementary

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school shall be deemed to be managers for the purpose of this section if they obtain the approval of the Education Department to the establishment of such school.

Sale or lease of schoolhouse.

XXII. The provisions of the Charitable Trusts Acts, 1853 to 1869, which relate to the sale, leasing, and exchange of lands belonging to any charity, shall extend to the sale, leasing, and exchange of the whole or any part of any land or schoolhouse belonging to a school board which may not be required by such board, with this modification, that the Education Department shall for the purposes of this section be deemed to be substituted in those Acts for the Charity Commissioners.

Managers may transfer school to school board.

XXIII. The managers of any elementary school in the district of a school board may, in manner provided by this Act, make an arrangement with the school board for transferring their school to such school board, and the school board may assent to such arrangement.

An arrangement under this section may be made by the managers by a resolution or other act as follows; (that is to say,)

(1) Where there is any instrument declaring the trusts of the school, and such instrument provides any manner in which or any assent with which a resolution or act binding the managers is to be passed or done, then in accordance with the provisions of such instrument:

(2) Where there is no such instrument, or such instrument contains no such provisions, then in the manner and with the assent, if any, in and with which it may be shown to the Education Department to have been usual for a resolution or act binding such managers to be passed or done:

(3) If no manner or assent can be shown to have been usual, then by a resolution passed by a majority of not less than two-thirds of those members of their body who are present at a meeting of the body summoned for the purpose, and vote on the question, and with the assent of any other person whose assent under the circumstances appears to the Education Department to be requisite.

And in every case such arrangement shall be made only—

(1) With the consent of the Education Department; and,

Sect. 23. Note.

With reference to the transfer of an endowment or charity funds to a school board, see *London School Board* v. *Falconer*, 8 Ch. Div. 571; 48 L. J. Ch. 41; *In re Poplar and Blackwall Free School*, 8 Ch. Div. 545; and as to the principles governing the powers of managers to transfer a school to a school board, see *National Society* v. *London School Board*, L. R. 18 Eq. 608; 44 L. J. Ch. 229; 31 L. T. (N. S.) 22; *Re Burnham National School*, L. R. 17 Eq. 241; 24 L. J. Ch. 340; 29 L. T. (N. S.) 495.

(2) If there are annual subscribers to such school, with the consent of a majority, not being less than two-thirds in number, of those of the annual subscribers who are present at a meeting duly summoned for the purpose, and vote on the question.

Provided that where there is any instrument declaring the trusts of the school, and such instrument contains any provision for the alienation of the school by any persons or in any manner or subject to any consent, any arrangement under this section shall be made by the persons in the manner and with the consent so provided.

Where it appears to the Education Department that there is any trustee of the school who is not a manager, they shall cause the managers to serve on such trustee, if his name and address are known, such notice as the Education Department think sufficient; and the Education Department shall consider and have due regard to any objections and representations he may make respecting the proposed transfer.

The Education Department shall consider and have due regard to any objections and representations respecting the proposed transfer which may be made by any person who has contributed to the establishment of such school.

After the expiration of six months from the date of transfer the consent of the Education Department shall be conclusive evidence that the arrangement has been made in conformity with this section.

An arrangement under this section may provide for the absolute conveyance to the school board of all the interest in the schoolhouse possessed by the managers or by any person who is trustee for them or for the school, or for the lease of the same, with or without any restrictions, and either at a nominal rent or otherwise, to the school board, or for the use by the school board of the schoolhouse during part of the week, and for the use of the same by the managers or some other person during the remainder of the week, or for any arrangement that may be agreed on. The arrangement may also provide for the transfer or application of any endowment belonging to the school, or for the school board undertaking to discharge any debt charged on the school not exceeding the value of the interest in the schoolhouse or endowment transferred to them.

When an arrangement is made under this section the managers may, whether the legal interest in the schoolhouse or endowment is vested in them or in some person as trustee for them or the school, convey to the school board all such interest in the schoolhouse and endowment as is vested in them or in such trustee, or such smaller interest as may be required under the arrangement.

Nothing in this section shall authorize the managers to transfer any property which is not vested in them, or a trustee

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for them, or held in trust for the school; and where any person has any right given him by the trusts of the school to use the school for any particular purpose independently of such managers, nothing in this section shall authorize any interference with such right except with the consent of such person.

Every school so transferred shall, to such extent and during such times as the school board have under such arrangement any control over the school, be deemed to be a school provided by the school board.

Re-transfer of school by school board to managers.

XXIV. Where any school or any interest therein has been transferred by the managers thereof to the school board of any school district in pursuance of this Act, the school board of such district may, by a resolution passed as herein-after mentioned, and with the consent of the Education Department, re-transfer such school or such interest therein to a body of managers qualified to hold the same under the trusts of the school as they existed before such transfer to the school board, and upon such re-transfer may convey all the interest in the schoolhouse and in any endowment belonging to the school vested in the school board.

A resolution for the purpose of this section may be passed by a majority of not less than two-thirds of those members of the school board who are present at a meeting duly convened for the purpose and vote on the question.

The Education Department shall not give their consent to any such re-transfer unless they are satisfied that any money expended upon such school out of a loan raised by the school board of such district has been or will on the completion of the re-transfer be repaid to the school board.

Every school so re-transferred shall cease to be a school provided by a school board, and shall be held upon the same trusts on which it was held before it was transferred to the school board.

Miscellaneous Powers of School Board.

[Sect. 25. *Payment of school fees:* Repealed by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 10.]

[Sect. 26. *Establishment of free school in special cases:* Repealed by the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), s. 11.]

Contribution to industrial schools. 29 & 30 Vict. c. 118.

XXVII. A school board shall have the same powers of contributing money in the case of an industrial school as is given to a prison authority by section twelve of "The Industrial

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Note.

This section is extended as regards borough councils by the Reformatory and Industrial Schools Acts Amendment Act, 1872 (35 & 36 Vict. c. 21), s. 8.

Schools Act, 1866;" and upon the election of a school board in a borough the council of that borough shall cease to have power to contribute under that section. Sect. 27.

XXVIII. A school board may, with the consent of the Education Department, establish, build, and maintain a certified industrial school within the meaning of the Industrial Schools Act, 1866, and shall for that purpose have the same powers as they have for the purpose of providing sufficient school accommodation for their district: Provided that the school board, so far as regards any such industrial school, shall be subject to the jurisdiction of one of Her Majesty's principal Secretaries of State in the same manner as the managers of any other industrial school are subject, and such school shall be subject to the provisions of the said Act, and not of this Act. Establishment of industrial school.

Constitution of School Boards.

XXIX. The school board shall be elected in manner provided by this Act,—in a borough by the persons whose names are on the burgess roll of such borough for the time being in force, and in a parish not situate in the metropolis by the ratepayers. School board.

At every such election every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit.

The school board in the metropolis shall be elected in manner herein-after provided by this Act.

XXX. With respect to the constitution of a school board the following provisions shall have effect: Constitution of school board.

(1) The school board shall be a body corporate, by the name of the school board of the district to which they belong, having a perpetual succession and a common seal, with power to acquire and hold land for the purposes of this Act without any licence in mortmain:

(2) No act or proceeding of the school board shall be questioned on account of any vacancy or vacancies in their body:

(3) No disqualification of or defect in the election of any persons or person acting as members or member of the

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The consent of a Secretary of State is substituted for the consent of the Education Department under this section (Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 15). See also sects. 12, 13, 14, 16 and 17 of that Act, and sects. 2, 3, 4 of the Elementary Education (Industrial Schools) Act, 1879 (42 & 43 Vict. c. 48), as to the powers of a school board in relation to certified industrial schools and certified industrial day schools. Sect. 28. Note.

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school board shall be deemed to vitiate any proceedings of such board in which they or he have taken part, in cases where the majority of members parties to such proceedings were duly entitled to act:

(4) Any minute made of proceedings at meetings of the school board, if signed by any person purporting to be the chairman of the board, either at the meeting of the board at which such proceedings took place or at the next ensuing meeting of the board, shall be receivable in evidence in all legal proceedings without further proof, and until the contrary is proved every meeting of the school board, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified to act:

(5) The members of a school board may apply any money in their hands for the purpose of indemnifying themselves against any law costs or damages which they may incur in or in consequence of the execution of the powers granted to them:

(6) The rules contained in the third schedule to this Act with respect to the proceedings of school boards, and the other matters therein contained, shall be observed.

Election of school board.

XXXI. With respect to the election under this Act of a school board, except in the metropolis, the following provisions shall have effect:

(1) The number of members of a school board shall be such number, not less than five nor more than fifteen, as may be determined in the first instance by the Education Department and afterwards from time to time by a resolution of the school board approved by the Education Department:

(2) The regulations contained in the second schedule to this Act with respect to the election and retirement of the members of the school board, and the other matters therein contained, shall be of the same force as if they were enacted as part of this section:

(3) The Education Department may, at any time after the date at which they are authorized under this Act to cause a school board to be formed, send a requisition to the mayor or any officer or officers who have power to take proceedings for holding the election requiring him or them to take such proceedings, and the mayor or other officer or officers shall comply with such requisition; and in case of default some person appointed by the Education Department may take such proceedings, and shall have for that purpose the same powers as the person in default.

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Non-election, &c. of school board.

XXXII. If from any cause in any school district the school board either are not elected at the time fixed for the first election, or at any time cease to be in existence, or to be of sufficient number to form a quorum by reason of non-election, resignation, or otherwise, or neglect or refuse to act, the Education Department may proceed in the same manner as if there were a school board acting in such district, and that board were a board in default.

[Sect. 33. *Determination of disputes as to the election of school boards:* Repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 38. By sect. 36 of that Act, the provisions of that Act and of the Fourth Part of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), are made applicable to school board elections.]

Disqualification of member of board.

XXXIV. No member of a school board, and no manager appointed by them, shall hold or accept any place of profit the appointment to which is vested in the school board or in any managers appointed by them, nor shall in any way share or be concerned in the profits of any bargain or contract with or any work done under the authority of such school board or managers appointed by them: Provided that this section shall not apply to—

(1) Any sale of land or loan of money to a school board; or

(2) Any bargain or contract made with or work done by a company in which such member holds shares;

(3) The insertion of any advertisement relating to the affairs of any such school board in any newspaper in which such member has a share or interest,

if he does not vote with respect to such sale, loan, bargain, contract, work, or insertion.

Any person who acts in contravention of this section shall be liable, on summary conviction, to a penalty not exceeding fifty pounds, and the said place of profit and his office as member or manager shall be vacant.

Appointment of officers.

XXXV. A school board may appoint a clerk and a treasurer and other necessary officers, including the teachers required for any school provided by such board, to hold office during the pleasure of the board, and may assign them such salaries or remuneration (if any) as they think fit, and may from time to time remove any of such officers; but no such appointment shall be made, except at the first meeting of such board, unless notice in writing has been sent to every member of the board.

Two or more school boards may arrange for the appointment of the same person to be an officer to both or all such boards.

Such officers shall perform such duties as may be assigned to them by the board or boards who appoint them.

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Officer to enforce attendance at school.

XXXVI. Every school board may, if they think fit, appoint an officer or officers to enforce any bye-laws under this Act with reference to the attendance of children at school, and to bring children who are liable under the Industrial Schools Act, 1866, to be sent to a certified industrial school before two justices in order to their being so sent, and any expenses incurred under this section may be paid out of the school fund.

School Board in Metropolis.

School board in metropolis.

XXXVII. The provisions of this Act with respect to the formation and the election of school boards in boroughs and parishes shall not extend to the metropolis; and with respect to a school board in the metropolis the following provisions shall have effect:

(1) The school board shall consist of such number of members elected by the divisions specified in the fifth schedule to this Act as the Education Department may by order fix:

(2) The Education Department, as soon as may be after the passing of this Act, shall by order determine the boundaries of the said divisions for the purposes of this Act, and the number of members to be elected by each such division:

(3) The provisions of this Act with respect to the constitution of the school board shall extend to the constitution of the school board under this section, and the name of the school board shall be the School Board for London:

Sect. 36. Note.

As to bye-laws, see sect. 74, *post*. By the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 38, no legal proceedings for non-attendance or irregular attendance may be commenced by any person authorized to carry out the compulsory bye-laws of a school board except by the direction of not less than two members of the board.

As to children who are liable to be sent to a certified industrial school, see the Industrial Schools Acts, 1866 and 1880 (29 & 30 Vict. c. 118; 43 & 44 Vict. c. 15), the Prevention of Crime Act, 1871 (34 & 35 Vict. c. 112), s. 14; the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), ss. 12—17, and the Elementary Education (Industrial Schools) Act, 1879 (42 & 43 Vict. c. 48), ss. 2, 3, 4.

The child may be brought before the justices by summons (*Reg.* v. *Moore*, 52 J. P. 375).

Sect. 37. Note.

Sub-sect. (10) of this section is repealed by the Education Act, 1870, Amendment Act, 1873 (36 & 37 Vict. c. 86), s. 28, and other provisions substituted for it by sect. 16 of that Act.

For "Metropolitan Board of Works" in sub-s. (11) read now "London County Council."

The various sections of the Metropolis Management Acts, 1855 and 1862, mentioned in sub-s. (6) of this section are all repealed by the Local Government Act, 1894, and elective vestries in the metropolis are abolished by the London Government Act, 1899. The persons entitled to vote for members of the London School Board are now defined by an Order of the Education Department, dated October 12th, 1894.

(4) The first election of the school board shall take place on such day, as soon as may be after the passing of this Act, as the Education Department may appoint, and subsequent elections shall take place in the month of November every third year on the day from time to time appointed by the school board:

(5) At every election for each division every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected for such division, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit:

(6) Subject to the provisions contained in this section and in any order made by the Education Department under the power contained in the second schedule to this Act, the members of the board shall, in the city of London, be elected by the same persons and in like manner as common councilmen are elected, and in the other divisions of the metropolis shall be elected by the same persons and in the same manner as vestrymen under the Metropolis Management Act, 1855, and the Acts amending the same; and, subject as aforesaid, the Acts relating to the election of common councilmen, and sections fourteen to nineteen, and twenty-one to twenty-seven, all inclusive, of the Metropolis Management Act, 1855, and section thirty-six of the Metropolis Management Amendment Act, 1862, shall, so far as is consistent with the tenor thereof, apply in the case of the election of members of the school board:

(7) The school board shall proceed at once to supply their district with sufficient public school accommodation, and any requisition sent by the Education Department to such board may relate to any of the divisions mentioned in the fifth schedule to this Act in like manner as if it were a school district, and it shall not be necessary for the Education Department to publish any notices before sending such requisition:

(8) The Education Department may, in the order fixing the boundaries of such divisions, name some person who shall be the returning officer for the purposes of the first election of the school board, and the person who is to be the deputy returning officer in each such division;

(9) The chairman of the school board shall be elected by the school board, and any chairman who may be elected by the board may be elected either from the members of the board or not, and any chairman who is not an elected member of the board shall, by virtue of his office, be a member of the board as if he had been so elected:

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(11) For obtaining payment of the amount specified in any precept sent by the school board to the rating authority for any part of the metropolis, the school board, in addition to any other powers and remedies, shall have the like powers as the *Metropolitan Board of Works* have for obtaining payment of any sum assessed by them on the same part of the metropolis.

Payment of chairman.

XXXVIII. The school board for London may pay to the chairman of such board such salary as they may from time to time, with the sanction of the Education Department, fix.

Alteration of number of members.

XXXIX. If at any time application is made to the Education Department by the school board for London, or by any six members of that board, and it is shown to the satisfaction of the Education Department that the population of any of the divisions mentioned in the fifth schedule to this Act, as shown by any census taken under the authority of Parliament, has varied materially from that shown by the previous census, or that the rateable value of any of the said divisions has materially varied from the rateable value of the same division ten years previously, the Education Department, after such inquiry as they think necessary, may, if they think fit, make an order altering, by way of increase or decrease, the number of members of that and any other division.

United School Districts.

Formation by Education Department of united districts.

XL. Where the Education Department are of opinion that it would be expedient to form a school district larger than a borough or a parish or any school district formed under this Act, they may, except in the metropolis, by order made after such inquiry and notice as herein-after mentioned, form a united school district by uniting any two or more adjoining school districts, and upon such union cause a school board to be formed for such united school district.

A united school district, shall for all the purposes of this Act be deemed to be a school district, and shall throughout this Act be deemed to be substituted for the school districts out of which it is constituted, and the school board of the united school district shall be the school board appointed under this Act, and the local rate and rating authority for the united district shall be in each of the constituent districts thereof the same as if such constituent district did not form part of the united school district.

Conditions of formation of district.

XLI. The Education Department, as soon as may be after the passing of this Act, may cause inquiry to be made into the

Sect. 40. Note.

For provisions as to inquiry and notice, see the Education Act, 1870, Amendment Act, 1873 (36 & 37 Vict. c. 86), s. 11.

expediency of uniting any two or more school districts, and if after such inquiry they are of opinion that it would be expedient to unite any such school districts, they shall in the notice of their decision as to the public school accommodation for such districts state that they propose to unite such districts, and the provisions of this Act with respect to the application for a public inquiry by persons aggrieved by the said notice, and to the holding of such public inquiry, and to the final notice, shall apply in the case of the proposed union of districts, with this qualification, that it shall not be necessary to cause a public inquiry to be held with respect to the union of districts until after the expiration of the period allowed by the final notice for the supply of the school accommodation. The order for the union may be made at the time when the Education Department are first authorized to cause a school board to be formed or subsequently. Where a union of districts is proposed the Education Department shall consider whether any public school accommodation is required for the area proposed as the united district instead of for each of the districts constituting such area, and their decision as to the public school accommodation and the notice of such decision shall accordingly refer to such area, and not separately to each of the constituent districts.

As to dissolution of united school district.

XLII. The Education Department may, by order made after such inquiry and notice as herein-after mentioned, dissolve a united school district, and may deal with the constituent districts thereof in the same manner as if they had never been united, and may cause school boards to be elected therein.

Public inquiry as to united district in future.

XLIII. The Education Department may at any time, after any proceedings after the first returns under this Act, if they think fit, cause inquiry to be made into the expediency of forming or dissolving a united school district, and where they propose at any time after such inquiry to form or dissolve a united school district, they shall publish notice of the proposed order not less than three months before the order is made; the like persons as are authorized to apply for a public inquiry after the first returns made under this Act may, if they feel aggrieved by the proposed order, apply in like manner for a public inquiry, and the Education Department shall cause a public inquiry to be held, and shall consider the report made to them upon such inquiry before they make the order for such formation or dissolution.

Order to be evidence of formation or dissolution.

XLIV. Any order of the Education Department forming or dissolving a united district, shall be evidence of the formation or dissolution of such district, and after the expiration of three months from the date of such order the district shall be presumed to have been duly formed or dissolved, as the case may be, and no objection to the formation or dissolution thereof shall be entertained in any legal proceedings whatever.

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Constitution of school board in united school district.

XLV. The provisions in this Act respecting the constitution of the school board shall apply to the constitution of the school board in a united school district, and the name of the district shall be such as may be prescribed by the Education Department.

Election of school board in united school district.

XLVI. In a united school district the school board shall be such number of members elected by the electors of the district as may be specified in the order forming the district, subject nevertheless to alteration in the same manner as in the case of any other school board; and every person who in any of the districts constituting such united district would be entitled if it were not united to vote at the election of members of a school board for such constituent district shall be an elector for the purposes of this section, and the provisions of this Act respecting the election of a school board in a district shall extend to the election of such members.

Arrangements on formation of united district.

XLVII. Where any part of a proposed united school district includes any district or part of a district in which there is a school board already acting under this Act, or where a united school district is dissolved, the Education Department may by order dissolve the then existing school board, or make all necessary changes in the constitution of such existing school board, and may by order make proper arrangements respecting the school, property, rights, and liabilities of such board, and all arrangements which may be necessary.

As to small parishes.

XLVIII. If the Education Department are of opinion that any parish in a united school district has too few ratepayers to be entitled to act as a separate parish for the purposes of this Act, they may by order direct that it shall for the purpose of voting for a member or members of the school board, and for all or any of the purposes of this Act, be added to another parish, and thereupon the persons who would be entitled to vote and attend the vestry if it were a parish shall be entitled for the purpose of voting and for such purposes to vote in and attend the vestry of the parish to which their parish is so added. All the parishes comprised in a united district, or any two or more of them, may be added together in pursuance of this section.

Contributory Districts.

Contributory district.

XLIX. The Education Department may by order direct that one school district shall contribute towards the provision or

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Note.

When a parish which has no separate school board has been formed a contributory district to a school board district, the parish is under the jurisdiction of the school attendance committee of the district which includes the parish, and not of the school board of the district to which it is contributory. The school attendance

maintenance of public elementary schools in another school district or districts, and in such case the former (or contributing district) shall pay to the latter (or school owning district or districts) such proportion of the expenses of such provision or maintenance or a sum calculated in such manner as the Education Department may from time to time prescribe. Sect. 49.

Election of members by contributory district.

L. Where one school district contributes to the provision or maintenance of any school in another school district, such number of persons as the Education Department (having regard to the amount to be contributed by the contributing district) direct shall be elected in the contributing district, and shall be members of the school board of the school owning district, but such last-mentioned district shall, except so far as regards the raising of money and the attendance of children at school, be deemed alone to be the district of such school board; such members shall be elected by the school board, if any, or, if there is none, by the persons who would elect a school board if there were one, in the same manner as a school board would be elected.

Notices and public inquiry as to contributory district

LI. The provisions of this Act with respect to the notices to be published, and the application for and the holding of a public inquiry in the case of an order for the formation of an united district, shall apply *mutatis mutandis* to an order respecting a contributory district.

An order respecting a contributory district shall be evidence of the formation of such district, and after the expiration of three months from the date thereof shall be presumed to have been duly made, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

Any such order may be revoked or altered by an order of the Education Department, and a new order may be made in lieu thereof, and all the provisions of this Act respecting the making of an order for contribution shall apply to the making of an order for the revocation or alteration of an order for contribution.

Combination of school boards.

LII. The school boards of any two or more school districts, with the sanction of the Education Department may combine together for any purpose relating to elementary schools in such districts, and in particular may combine for the purpose of providing, maintaining, and keeping efficient schools common to such districts. Such agreements may provide for the

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committee, therefore, and not the school board, will make and enforce the bye-laws as to attendance, and the parish is liable to contribute to the expenses of the school attendance committee in like manner as if it had not been a contributory district (*Reg.* v. *Vane*, or *Reg.* v. *Cumberland JJ.*, 51 L. J. M. C. 114; 47 L. T. 22). Sect. 49. Note.

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appointment of a joint body of managers under the provisions of this Act with respect to the appointment of a body of managers and for the proportion of the contributions to be paid by each school district, and any other matters which, in the opinion of the Education Department, are necessary for carrying out such agreement, and the expenses of such joint body of managers shall be paid in the proportions specified in the agreement by each of the school boards out of their school fund.

Expenses.

School fund of school board.

LIII. The expenses of the school board under this Act shall be paid out of a fund called the school fund. There shall be carried to the school fund all monies received as fees from scholars, or out of monies provided by Parliament, or raised by way of loan, or in any manner whatever received by the school board, and any deficiency shall be raised by the school board as provided by this Act.

Deficiency of school fund raised out of rates.

LIV. Any sum required to meet any deficiency in the school fund, whether for satisfying past or future liabilities, shall be paid by the rating authority out of the local rate.

The school board may serve their precept on the rating authority, requiring such authority to pay the amount specified therein to the treasurer of the school board out of the local rate, and such rating authority shall pay the same accordingly,

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Note.

By the Elementary Education Act, 1876 (39 & 40 Vict. c. 70), s. 30, the expenses of a school board as a "local authority" under that Act are to be deemed expenses of the board under this Act. By the Elementary Education (Blind and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42), s. 5 (3), this section is to apply in the case of a combination of two or more school authorities for the performance of their duties under that Act.

As to payments to school boards out of the local taxation account under the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), see sect. 4 of that Act.

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Note.

For the "rating authority" and the "local rate," see schedule (I.), *post*.

A school board have not power, when the school fund proves insufficient, to contract a temporary loan for the purpose of meeting their current expenses until they can obtain money out of the rates; and the members of the board will be surcharged any expenses incurred by the board in contracting such loan, and any interest paid thereon (*Reg.* v. *Reed*, 5 Q. B. D. 483; 49 L. J. Q. B. 600; 42 L. T. 835; 28 W. R. 787).

A *mandamus* will lie to the rating authority to pay to the treasurer of the school board the amount of their precept. The remedy in sect. 56, *post*, upon default of the rating authority is cumulative upon the remedy by *mandamus* (*Griblethorpe School Board* v. *Griblethorpe, Overseers*, 47 J. P. 727).

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and the receipt of such treasurer shall be a good discharge for the amount so paid, and the same shall be carried to the school fund.

If the rating authority have no monies in their hands in respect of the local rate, they shall, or if they have paid the amount then for the purpose of reimbursing themselves they may, notwithstanding any limit under any Act of Parliament or otherwise, levy the said rate, or any contributions thereto, or any increase of the said rate or contributions, and for that purpose shall have the same powers of levying a rate and requiring contributions as they have for the purpose of defraying expenses to which the local rate is ordinarily applicable.

Apportionment of school fund in united and contributory district.

LV. In a united district the school board shall apportion the amount required to meet the deficiency in the school fund among the districts constituting such united district in proportion to the rateable value of each such constituent district, and may raise the same by a precept sent to the rating authority of each constituent district.

Where one school district contributes to the expenses of the schools in another school district, the authority of the school owning district may send their precept either to the school board, if any, or to the rating authority of the contributing district, requiring them to pay to their treasurer the amount therein specified, and such authority or board shall pay the same accordingly, and the receipt of the treasurer shall be a good discharge for the same, and such amount, if paid by the school board, shall be paid out of the school fund.

The precept, if sent to the rating authority, either on the default of the school board or otherwise, shall be deemed to be a precept for meeting a deficiency in the school fund, and the provisions of this Act shall apply accordingly.

Remedy of school board on default of rating authority, &c.

LVI. In either of the following cases, that is to say,

(1) If the rating authority of any place make default in paying the amount specified in any precept of the school board; or

(2) Where a school board require to raise a sum from any place which is part of a parish,

then, without prejudice to any other remedy, the school board may appoint an officer or officers to act within such place; and the officer or officers so from time to time appointed shall have

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Note.

See the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 49, enabling overseers of a parish to levy in the part of the parish which forms a separate school district a rate in the nature of a poor rate, either as a separate rate or an addition to the poor rate.

The remedy provided by this section is in addition to the remedy by *mandamus*. (See sect. 54, *ante*.)

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within the said place, for the purpose of defraying the sum due from such place, all the powers of the rating authority of levying the local rate and any contributions thereto, and also all the powers of making and levying a rate which he or they would have if the said place were a parish, and such rate were a rate for the relief of the poor, and he or they were duly appointed an overseer or overseers of such parish, and he and they shall have such access to and use of the documents of the rating authority of such place relative to the local rate, and of all the valuation lists and rate-books of the parish or parishes comprised in or comprising such place, as he or they may require.

[Sect. 57. *Borrowing by school board:* This section is repealed by the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 28, and replaced by sect. 10 of that Act.]

Borrowing by school board for London.

LVIII. Any sum borrowed by the school board for London in pursuance of this Act, with the approval of the Education Department, may be borrowed from and may be lent by the *Metropolitan Board of Works*, and section thirty-seven of the Metropolitan Board of Works Loan Act, 1869, shall apply to such loan in the same manner as if the managers therein mentioned were the school board for London, and there were added to the sum therein authorized to be borrowed the sum authorized by the Education Department to be borrowed under this section.

Accounts and Audit.

[Sect. 59. *Accounts to be made up and examined:* This section is repealed by the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 28, and replaced by sect. 17 of that Act.]

Audit of accounts.

LX. With respect to the audit of accounts of the school board the following provisions shall have effect:

(1) The auditor shall be the auditor of accounts relating to the relief of the poor for the audit district . . . :

(2) The audit shall be held at the office of the school board, or some other place sanctioned by the Poor Law Board

Sect. 58. Note.

For "Metropolitan Board of Works" now read "London County Council." The provisions of this section are extended to expenses incurred by the London School Board in providing and enlarging offices: 35 & 36 Vict. c. 27, s. 2.

Sect. 60. Note.

Sub-sect. (1) is in part repealed by the District Auditors Act, 1879 (42 Vict. c. 6), and sub-sect. (9) is repealed by the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 28, and replaced by sect. 18 of that Act.

As to signing of the accounts by the chairman of the school board, see the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 17.

For the powers of the auditor of poor law accounts, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32—36, 52; the

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within the school district, or within the union within which the school district or some part thereof is situate, and at a time which is fixed by the auditor, but which shall be as soon as may be after the account is signed by the chairman:

(3) The auditor, at least fourteen days before holding the audit, shall serve on the school board, and publish notice of the time and place of holding the same:

(4) The clerk of the school board, or some person authorized by the school board, shall attend the audit, and produce to the auditor all books, bills, vouchers, and documents relating to the account:

(5) Any ratepayer of the school district may be present at the audit, and may object to the account:

(6) The auditor shall, as nearly as may be, have the like powers and be under the like obligation to allow and disallow items in the account, and to charge the school board, or any member or officer thereof, or any person accountable to them or him, with any sum for which they or he may be accountable, as in the case of an audit of the accounts relating to the relief of the poor in any union or parish; and any person aggrieved by the decision of the auditor shall have the like rights and remedies as in the case of such last-mentioned audit:

(7) The auditor shall have the like powers of requiring the attendance of persons, the production of books, bills, vouchers, and documents, and a declaration respecting vouchers and documents, as in the case of such last-mentioned audit; and any person who refuses or neglects to comply with any such requisition, or wilfully makes or signs a false declaration so required, shall be liable to the same penalties as in the case of such last-mentioned audit:

(8) Any monies, books, documents, and chattels certified by the auditor to be due from any person may be recovered from such person in like manner as in the case of such last-mentioned audit, and the expenses incurred in such recovery shall be deemed to be part of the expenses of the audit:

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Penalty for improper payment of surcharge.

LXI. Any member or officer of a school board, or manager appointed by them, who authorizes or makes, or concurs in

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Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91); and the Local Authorities (Expenses) Act, 1887 (50 & 51 Vict. c. 72).

Note.

Payment of a sum certified to be due by a district auditor is enforceable in the like manner as a sum due in respect of a poor rate (S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 11).

Sect. 61.

As to proceedings for recovery of penalties, see sect. 92, *post*, and the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), ss. 23, 24.

Note.

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authorizing or making, any payment or any entry in accounts for the purpose of defraying or making up to himself or any other person the whole or any part of any sum of money unlawfully expended from the school fund, or disallowed or surcharged by any auditor, shall, on summary conviction, be liable to pay a penalty not exceeding twenty pounds and double the amount of such sum.

Publication of accounts.

LXII. When the auditor has completed the audit he shall sign the balance sheet.

The school board shall cause a statement showing their receipts and expenditure to be printed in such form and with such particulars as may be from time to time prescribed by the Education Department, and shall send the same within thirty days after the balance sheet is signed by the auditor to each member of the rating authority, and to the overseers of every parish in the district, and to the Education Department; and the school board may, if they think fit, publish such statement or an abstract thereof in any local newspaper or newspapers circulating in the district, and shall furnish a copy of such statement to any ratepayer in the district, on his application, and on the payment of a sum not exceeding sixpence.

Defaulting School Board.

Proceedings on default by school board.

LXIII. When the Education Department are, after such inquiry as they think sufficient, satisfied that a school board is in default as mentioned in this Act, they may by order declare such board to be in default, and by the same or any other order appoint any persons, not less than five or more than fifteen, to be members of such school board, and may from time to time remove any member so appointed, and fill up any vacancy in the number of such members, whether caused by removal, resignation, death, or otherwise, and, subject as aforesaid, add to or diminish the number of such members.

After the date of the order of appointment the persons (if any) who were previously members of the school board shall be deemed to have vacated their offices as if they were dead, but any such member may be appointed a member by the Education Department. The members so appointed by the Education Department shall be deemed to be members of the school board in the same manner in all respects as if, by election or otherwise, they had duly become members of the school board under the other provisions of this Act, and may perform all the duties and exercise all the powers of the school board under this Act.

The members appointed by the Education Department shall hold office during the pleasure of the Education Department, and when that department consider that the said default has been remedied, and everything necessary for that purpose has

been carried into effect, they may, by order, direct that members be elected for the school board in the same manner as in the case of the first formation of the school board. After the date fixed by any such order the members appointed by the Education Department shall cease to be members of the school board, and the members so elected shall be members of the school board in their room, but the members appointed by the Education Department shall not be disqualified from being so elected. Until any such order is made no person shall become a member of the school board otherwise than by the appointment of the Education Department.

Where a school board is not elected at the time fixed for the first election, or has ceased to be in existence, the Education Department may proceed in the same manner as if such board had been elected and were in existence.

Certificate of Education Department as to appointment, expenses, and loans.

LXIV. The Education Department may from time to time certify the appointment of any persons appointed to be members of a school board in default, and the amount of expenses that have been incurred by such persons, and the amount of any loan required to be raised for the purpose of defraying any expenses so incurred, or estimated as about to be incurred; and such certificate shall be conclusive evidence that all the requirements of this Act have been duly complied with, and that the persons so appointed have been duly appointed, and that the amounts therein mentioned have been incurred or are required.

Expenses incurred on default.

LXV. The expenses incurred in the performance of their duties by the persons appointed by the Education Department to be members of a school board, including such remuneration (if any) as the Education Department may assign to such persons, shall, together with all expenses incurred by the board, be paid out of the school fund; and any deficiency in the school fund may be raised by the school board as provided by this Act; and where the Education Department have, either before or after the payment of such expenses, certified that any expenses have been incurred by a school board, or any members appointed by them, such expenses shall be deemed to have been so incurred, and to have been properly paid out of the school fund.

Where the members of a school board have been appointed by the Education Department, such school board shall not borrow or charge the school fund with the principal and interest of any loan exceeding such amount as the Education Department certify as mentioned in this Act to be required.

Dissolution of school boards.

LXVI. Where the Education Department are of opinion that in the case of any school district the school board for such district are in default, or are not properly performing their duties under this Act, they may by order direct that the then

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members of the school board of such district shall vacate thei seats, and that the vacancies shall be filled by a new election and after the date fixed by any such order the then member of such board shall be deemed to have vacated their seats, an a new election shall be held in the same manner, and th Education Department shall take the same proceedings for th purpose of such election as if it were the first election; and a the provisions of this Act relating to such first election sha apply accordingly.

The Education Department shall cause to be laid befor both Houses of Parliament in every year a special repo stating the cases in which they have made any order unde this section during the preceding year, and their reasons fo making such order.

Returns and Inquiry.

Returns by local authority.

LXVII. On or before the first day of January one thousan eight hundred and seventy-one, or in the case of the metropoli before the expiration of four months from the date of th election of the chairman of the school board, every loca authority herein-after mentioned, and subsequently any suc local authority whenever required by the Education Depart ment, but not oftener than once in every year, shall send t the Education Department a return containing such particular with respect to the elementary schools and children requirin elementary education in their district as the Education Depart ment may from time to time require.

Mode of obtaining returns.

LXVIII. For the purpose of obtaining such returns th Education Department shall draw up forms, and supply to th local authority such number of forms as may be required; an the managers or principal teacher of every school required t be included in any such return shall fill up the form, an return the same to the local authority within the time specifie in that behalf in the form.

Local authority to make returns.

LXIX. The returns shall be made in the metropolis by th school board appointed under this Act, in boroughs by th council, and in every parish not situated in a borough o the metropolis by persons appointed for the purpose or by th overseers of such parish. Where a school board is forme under this Act, the returns shall be made by such school boar within their district, instead of by the council, persons appointe as aforesaid, or overseers, as the case may be.

The persons appointed for the purpose may be appointed a follows; namely, the Education Department may, if they thin fit, send to the overseers or other officers who have power t summon a vestry in such parish a requisition to summon, an such overseers or other officers shall summon, a vestry in suc parish for the purpose of this section; and such vestry sha

appoint two or more persons who shall be the local authority for the purpose of the returns under this Act. Sect. 69.

The local authority may, with the sanction of the Education Department, employ persons to assist in making such returns, and may pay those persons such remuneration as the Treasury may sanction. That remuneration, and all such other reasonable expenses incurred by the local authority in making such returns as the Treasury may sanction, shall be paid by the Education Department.

Proceedings on default of authority to make returns.

LXX. If any local authority fail to make the returns required under this Act, the Education Department may appoint any person or persons to make such returns, and the person or persons so appointed shall for that purpose have the same powers and authorities as the local authority.

Inquiry by inspectors of Education Department.

LXXI. The Education Department may appoint any persons to act as inspectors of returns, who shall proceed to inquire into the accuracy and completeness of any one or more returns made in pursuance of this Act, and into the efficiency and suitability of any school mentioned in any such return, or which ought to have been mentioned therein, and to inspect and examine the scholars in every such school. Where there is no return the inspector shall proceed as if there had been a defective return.

Refusal to fill up forms and to admit inspectors.

LXXII. If the managers or teachers of any school refuse or neglect to fill up the form required for the said return, or refuse to allow the inspector to inspect the schoolhouse or examine any scholar, or examine the school books and registers, or make copies or extracts therefrom, such school shall not be taken into consideration among the schools giving efficient elementary education to the district.

Public Inquiry.

Public inquiry.

LXXIII. Where a public inquiry is held in pursuance of the provisions of this Act the following provisions shall have effect:

(1) The Education Department shall appoint some person who shall proceed to hold the inquiry:

(2) The person so appointed shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the school district to which the subject of inquiry relates, and thereat shall hear, receive, and examine any evidence and information offered, and hear and inquire into any objections or

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See also the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 19. Sect. 70. Note.

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representations made respecting the subject of the inquiry, with power from time to time to adjourn any sitting.

Notice shall be published in such manner as the Education Department direct of every such sitting (except an adjourned sitting) seven days at least before the holding thereof:

(3) The person so appointed shall make a report in writing to the Education Department setting forth the result of the inquiry, and stating his opinion on the subject thereof, and his reasons for such opinion, and the objections and representations, if any, made on the inquiry, and his opinion thereon; and the Education Department shall cause a copy of such report to be deposited with the school board (if any), or, if there is none, the town clerk of the borough, or the churchwardens or overseers of the parishes to which the inquiry relates, and notice of such deposit to be published:

(4) The Education Department may make an order directing that the costs of the proceedings and inquiry shall be paid, according as they think just, either by the district as if they were expenses of a school board, or by the applicants for the inquiry; and such costs may be recovered, in the former case, as a debt due from the school board, or, if there is no school board, as a debt due from the rating authority, and, in the case of the applicants, as a debt due jointly and severally from them; and the Education Department may, if they think fit, before ordering the inquiry to be held, require the applicants to give security for such expenses, and in case of their refusal may refuse to order the inquiry to be held.

Attendance at School.

As to attendance of children at school.

LXXIV. Every school board may from time to time, with the approval of the Education Department, make bye-laws for all or any of the following purposes:

(1) Requiring the parents of children of such age, not less than five years nor more than thirteen years, as may

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Note.

Powers to make bye-laws were extended to school attendance committees by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), ss. 21, 23, and the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), ss. 2, 3; and by sect. 2 of the latter Act the making of bye-laws respecting attendance at school is made obligatory on the local authority.

A woman whose husband is absent and who has the actual custody of a child is a "parent" within the meaning of sub-sect. (1) of

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be fixed by the bye-laws, to cause such children (unless there is some reasonable excuse) to attend school:

(2) Determining the time during which children are so to attend school; provided that no such bye-laws shall prevent the withdrawal of any child from any religious observance or instruction in religious subjects, or shall require any child to attend school on any day exclusively set apart for religious observance by the religious body to which his parent belongs, or shall be contrary to anything contained in any Act for regulating the education of children employed in labour:

(3) Providing for the remission [*or payment*] of the whole or any part of the fees of any child where the parent satisfies the school board that he is unable from poverty to pay the same:

(4) Imposing penalties for the breach of any bye-laws:

(5) Revoking or altering any bye-law previously made.

Provided that any bye-law under this section requiring a child between [*ten*] and thirteen years of age to attend school shall provide for the total or partial exemption of such child

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this section. See definition in sect. 3 and *Hance* v. *Burnett*, 45 J. P. 54.

Note.

A person does not "cause a child to attend school" within the meaning of a bye-law framed under this section, if, where a fee is payable, he sends the child to a school without the school fee (*Saunders* v. *Richardson*, 7 Q. B. D. 388; 50 L. J. M. C. 137; 47 L. T. 319; 29 W. R. 800); even though the child be admitted and taught (*London School Board* v. *Wood*, 15 Q. B. D. 415; 54 L. J. M. C. 145; 54 L. T. 88).

Detention of a child at school after school hours for not doing home lessons is unlawful, and renders the master who detains the child liable to be convicted of an assault (*Hunter* v. *Johnson*, 13 Q. B. D. 225; 53 L. J. M. C. 182; 32 W. R. 857).

The words "or payment" in sub-sect. (3) are in effect repealed by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), ss. 10, 52; and by sects. 10 and 40 of that Act guardians alone are empowered to pay the school fees of children of poor persons, whether paupers or not. School boards may, however, admit children to any school provided by them without payment of any fee (Elementary Education Act, 1891 (54 & 55 Vict. c. 56), s. 8).

By the Elementary Education (School Attendance) Act, 1893 (56 & 57 Vict. c. 51), s. 1, the word "eleven" is to be substituted for "ten" in this section.

There may be matters which afford a "reasonable excuse" other than those mentioned in this section (*Belper Attendance Committee* v. *Bailey*, 9 Q. B. D. 259; 51 L. J. M. C. 91; *London School Board* v. *Duggan*, 13 Q. B. D. 176; 53 L. J. M. C. 104; 32 W. R. 768).

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from the obligation to attend school if one of Her Majesty's inspectors certifies that such child has reached a standard of education specified in such bye-law. Any of the following reasons shall be a reasonable excuse; namely,

(1) That the child is under efficient instruction in some other manner:

(2) That the child has been prevented from attending school by sickness or any unavoidable cause:

(3) That there is no public elementary school open which the child can attend within such distance, not exceeding three miles, measured according to the nearest road from the residence of such child, as the bye-laws may prescribe.

The school board, not less than one month before submitting any bye-law under this section for the approval of the Education Department, shall deposit a printed copy of the proposed bye-laws at their office for inspection by any ratepayer, and supply a printed copy thereof gratis to any ratepayer, and shall publish a notice of such deposit.

The Education Department before approving of any bye-laws shall be satisfied that such deposit has been made and notice published, and shall cause such inquiry to be made in the school district as they think requisite.

Any proceeding to enforce any bye-law may be taken, and any penalty for the breach of any bye-law may be recovered, in a summary manner; but no penalty imposed for the breach of any bye-law shall exceed such amount as with the costs will amount to five shillings for each offence, and such bye-laws shall not come into operation until they have been sanctioned by Her Majesty in Council.

It shall be lawful for Her Majesty, by Order in Council, to sanction the said bye-laws, and thereupon the same shall have effect as if they were enacted in this Act.

All bye-laws sanctioned by Her Majesty in Council under this section shall be set out in an appendix to the annual report of the Education Department.

Miscellaneous.

Application of small endowments.

LXXV. Where any school or any endowment of a school was excepted from the Endowed Schools Act, 1869, on the ground that such school was at the commencement of that Act in receipt of an annual Parliamentary grant, the governing body (as defined by that Act) of such school or endowment may frame and submit to the Education Department a scheme respecting such school or endowment.

The Education Department may approve such scheme with or without any modifications as they think fit.

The same powers may be exercised by means of such scheme

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as may be exercised by means of any scheme under the Endowed Schools Act, 1869 ; and such scheme, when approved by the Education Department, shall have effect as if it were a scheme made under that Act.

A certificate of the Education Department that a school was at the commencement of the Endowed Schools Act, 1869, in receipt of an annual Parliamentary grant shall be conclusive evidence of that fact for all purposes.

Inspection of voluntary schools by inspector not one of Her Majesty's inspectors.

LXXVI. Where the managers of any public elementary school not provided by a school board desire to have their school inspected or the scholars therein examined, as well in respect of religious as of other subjects, by an inspector other than one of Her Majesty's inspectors, such managers may fix a day or days not exceeding two in any one year for such inspection or examination.

The managers shall, not less than fourteen days before any day so fixed, cause public notice of the day to be given in the school, and notice in writing of such day to be conspicuously affixed in the school.

On any such day any religious observance may be practised, and any instruction in religious subjects given at any time during the meeting of the school, but any scholar who has been withdrawn by his parents from any religious observance or instruction in religious subjects shall not be required to attend the school on any such day.

Parish divided by boundaries of boroughs.

LXXVII. Where a parish is situated partly within and partly without a borough, the part situate outside of the borough shall be taken to be for all the purposes of this Act, except as otherwise expressly mentioned, a parish by itself, and the ratepayers thereof may meet in vestry in the same manner in all respects as if they were the inhabitants of a parish; every such meeting, and also the meeting for the purposes of this Act of the ratepayers of any parish (the ratepayers of which have not usually met in vestry), shall be deemed to be a vestry, and, save as provided by this Act, be subject to the Act of the fifty-eighth year of the reign of King George the Third, chapter sixty-nine, and the Acts amending the same, and, subject as aforesaid, shall be summoned by the persons and in the mode prescribed by the Education Department; and the overseers of the whole parish shall be deemed to be the overseers of any such part of a parish.

Education Department may apply to

LXXVIII. The Education Department shall, for the purposes of the Charitable Trusts Acts, 1853 to 1869, be deemed to be

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Sect. 77. Note.

For levying rates in parts of parishes, see the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 49.

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Charity Commissioners under 16 & 17 Vict. c. 137, &c.

persons interested in any elementary school to which those Acts are applicable, and the endowment thereof.

Ascertaining rateable value.

LXXIX. The rateable value of any parish or school district shall for the purposes of this Act be the rateable value as stated in the valuation lists, if any, and if there are none, then as stated in the rate-book for the time being in force in such parish and in the parishes constituting the district; and the overseers and other persons having the custody of such valuation lists and rate-book shall, when required by the school board, produce such lists and rate-book to the school board, and allow the school board and any person appointed by them to inspect the same, and take copies of or extracts therefrom.

[Sect. 80. *Mode of publication of notices:* This section is repealed by the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 28, and replaced by sect. 20 of that Act.]

Notices may be served by post.

LXXXI. Certificates, notices, requisitions, orders, precepts, and all documents required by this Act to be served or sent may, unless otherwise expressly provided, be served and sent by post, and, till the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the certificate, notice, requisition, order, precept, or document was prepaid, and properly addressed, and put into the post.

Notices to and by school board.

LXXXII. Certificates, notices, requisitions, orders, and other documents may be served on a school board by serving the same on their clerk, or by sending the same to or delivering the same at the office of such board.

Certificates, notices, requisitions, orders, precepts, and other documents may be in writing or in print, or partly in writing and partly in print, and if requiring authentication by a school board may be signed by their clerk.

Evidence of orders, &c. of Education Department.

LXXXIII. All orders, minutes, certificates, notices, requisitions, and documents of the Education Department, if purporting to be signed by some secretary or assistant secretary of the Education Department, shall, until the contrary is proved,

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Sect. 79. Note.

For the valuation lists, see the Union Assessment Committee Acts, 1862 and 1864 (25 & 26 Vict. c. 103; 27 & 28 Vict. c. 39). See also the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), s. 3.

Sect. 81. Note.

See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 26, for meaning of "service by post."

be deemed to have been so signed and to have been made by the Education Department, and may be proved by the production of a copy thereof purporting to have been so signed.

The Documentary Evidence Act, 1868, shall apply to the Education Department in like manner as if the Education Department were mentioned in the first column of the schedule to that Act, and any member of the Education Department, or any secretary or assistant secretary of the Education Department, were mentioned in the second column of that schedule.

Effect of requisitions of Education Department.

LXXXIV. After the expiration of three months from the date of any order or requisition of the Education Department under this Act such order or requisition shall be presumed to have been duly made, and to be within the powers of this Act, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

Appearance of school board.

LXXXV. A school board may appear in all legal proceedings by their clerk, or by some member of the board authorized by a resolution of the board; and every such resolution shall appear upon the minutes of the proceedings of the board, but every such resolution shall, until the contrary is proved, be deemed in any legal proceeding to appear upon such minutes.

Tenure of teacher, and his removal from house under sects. 17 and 18 of 4 & 5 Vict. c. 38.

LXXXVI. The provisions of the Schools Sites Acts with respect to the tenure of the office of the schoolmaster or schoolmistress, and to the recovery of possession of any premises held over by a master or mistress who has been dismissed or ceased to hold office, shall extend to the case of any school provided by a school board, and of any master or mistress of such school, in the same manner as if the school board were the trustees or managers of the school as mentioned in those Acts.

Ratepayer may inspect books, &c. of school board.

LXXXVII. Every ratepayer in a school district may at all reasonable times, without payment, inspect and take copies of and extracts from all books and documents belonging to or under the control of the school board of such district.

Any person who hinders a ratepayer from so inspecting or taking copies of or extracts from any book or document, or demands a fee for allowing him so to do, shall be liable, on summary conviction, to a penalty not exceeding five pounds for each offence.

Penalty for making incorrect return.

LXXXVIII. If any returning officer, clerk, or other person engaged in an election of a school board under this Act wilfully makes or causes to be made an incorrect return of the votes given at such election, every such offender shall, upon summary conviction, be liable to a penalty not exceeding fifty pounds.

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[Sect. 89. *Penalty on personation of voter:* Repealed by the Elementary Education Act, 1873 (36 & 37 Vict. c. 86). For penalty on personation, see now the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).]

Penalty for forging or falsifying any voting paper or obstructing the election.

XC. If any person . . . by any contrivance attempt to obstruct or prevent the purposes of any such election, or wilfully contravene any regulation made by the Education Department under the second schedule to this Act with respect to the election, the contravention of which is expressed to involve a penalty, the person so offending shall upon summary conviction be liable to a penalty of not more than fifty pounds, and in default of payment thereof to be imprisoned for a term not exceeding six months.

[Sect. 91. *Corrupt practices:* Repealed by the S. L. R. Act, 1893 (No. 2). For the penalties for corrupt practices, see now the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).]

Recovery of penalties.

XCII. Any penalty and any money which under this Act is recoverable summarily, and all proceedings under this Act which may be taken in a summary manner, may be recovered and taken before two justices in manner directed by an Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders," and the Acts amending the same.

11 & 12 Vict. c. 43.

Provision as to Oxford.

XCIII. In the case of the borough of Oxford, the provisions of this Act relating to boroughs shall be construed as if the local board were therein mentioned instead of the council; if a school board is formed in the borough of Oxford, one-third of the school board shall be elected by the university of Oxford, or the colleges and halls therein, in such manner as may be directed by the Education Department by an order made under the power contained in the second schedule to this Act.

Effect of schedules.

XCIV. The schedules to this Act shall be of the same force as if they were enacted in this Act, and the Acts mentioned in the fourth schedule to this Act may be cited in the manner in that schedule mentioned.

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Note.

This section is repealed in part by the Elementary Education Act, 1873 (36 & 37 Vict. c. 86). Two Orders of the Education Department, both dated May 1st, 1895, apply sects. 3, 4, 11 and 24 of the Ballot Act, 1872 (35 & 36 Vict. c. 33), to school board elections in boroughs and parishes respectively.

XCV. Every school board shall make such report and returns and give such information to the Education Department as the department may from time to time require. Sect. 95. Returns by school board.

(II.) PARLIAMENTARY GRANT.

XCVI. After the thirty-first day of March one thousand eight hundred and seventy-one no Parliamentary grant shall be made to any elementary school which is not a public elementary school within the meaning of this Act. Parliamentary grant to public elementary school only.

No Parliamentary grant shall be made in aid of building, enlarging, improving, or fitting up any elementary school, except in pursuance of a memorial duly signed, and containing the information required by the Education Department for enabling them to decide on the application, and sent to the Education Department on or before the thirty-first day of December one thousand eight hundred and seventy.

XCVII. The conditions required to be fulfilled by an elementary school in order to obtain an annual Parliamentary grant shall be those contained in the minutes of the Education Department in force for the time being, and shall amongst other matters provide that after the thirty-first day of March one thousand eight hundred and seventy-one— Conditions of annual Parliamentary grant.

(1) Such grant shall not be made in respect of any instruction in religious subjects :

* * * * *

but such conditions shall not require that the school shall be in connexion with a religious denomination, or that religious instruction shall be given in the school, and shall not give any preference or advantage to any school on the ground that it is or is not provided by a school board :

Provided that where the school board satisfy the Education Department that in any year ending the twenty-ninth of September the sum required for the purpose of the annual expenses of the school board of any school district, and actually paid to the treasurer of such board by the rating authority, amounted to a sum which would have been raised by a rate of threepence in the pound on the rateable value of such district, and any such rate would have produced less than twenty pounds, or less than *seven shillings and sixpence* per child of the

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Sect. 97. Note.

Repealed in part by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 19, which substituted other provisions for the repealed provisions in this section, which were in their turn repealed by the Voluntary Schools Act, 1897 (60 & 61 Vict. c. 5).

So much of this section also as relates to the limit of seven and sixpence for each child is altered by the Elementary Education Act, 1897 (60 & 61 Vict. c. 16), s. 1.

Sect. 97.

number of children in average attendance at the public elementary schools provided by such school board, such school board shall be entitled in addition to the annual Parliamentary grant in aid of the public elementary schools provided by them, to such further sum out of monies provided by Parliament as, when added to the sum actually so paid by the rating authority, would, as the case may be, make up the sum of twenty pounds, or the sum of *seven shillings and sixpence* for each such child, but no attendance shall be reckoned for the purpose of calculating such average attendance unless it is an attendance as defined in the said minutes:

Provided that no such minute of the Education Department not in force at the time of the passing of this Act shall be deemed to be in force until it has lain for not less than one month on the table of both Houses of Parliament.

Refusal of grant to unnecessary schools.

XCVIII. If the managers of any school which is situate in the district of a school board acting under this Act, and is not previously in receipt of an annual Parliamentary grant, whether such managers are a school board or not, apply to the Education Department for a Parliamentary grant, the Education Department may, if they think that such school is unnecessary, refuse such application.

The Education Department shall cause to be laid before both Houses of Parliament in every year a special report stating the cases in which they have refused a grant under this section during the preceding year, and their reasons for each such refusal.

Power of schools to take Parliamentary grants.

XCIX. The managers of every elementary school shall have power to fulfil the conditions required in pursuance of this Act to be fulfilled in order to obtain a Parliamentary grant, notwithstanding any provision contained in any instrument regulating the trusts or management of their school, and to apply such grant accordingly.

Report.

Annual report of Education Department.

C. The Education Department shall in every year cause to be laid before both Houses of Parliament a report of their proceedings under this Act during the preceding year.

FIRST SCHEDULE.

School District.	School Board.	Local Rate.	Rating Authority.
The metropolis -	The school board appointed under this Act.	In the city of London the consolidated rate.	The commissioners of sewers.
		In the parishes mentioned in schedule (A.) and the districts mentioned in schedule (B.) to the Metropolis Management Act, 1855, the general rate, and fund raised by the general rate.	In the parishes the vestry, and in the districts the district board.
		In places mentioned in schedule (C.) to the said Act, the rate levied for the purposes of the Metropolitan Poor Act, 1867, and any Act amending the same.	The masters of the bench, treasurer, governors, or other persons who have the chief control or authority in such place.
Boroughs, except Oxford.	The school board appointed under this Act.	The borough fund or borough rate.	The council.
District of the local board of Oxford.	The school board appointed under this Act.	Rate leviable by the local board.	The local board.
Parishes not included in any of the above-mentioned districts.	The school board appointed under this Act.	The poor rate.	The overseers.

[Schedule II. contains rules respecting election and retirement of members of school board, respecting resolutions for application for school board, and for election of school board in metropolis.]

THIRD SCHEDULE.

[The former part of this schedule relates to proceedings of school board.]

Form of Precept.

School district of to wit.

To the council [*or* overseers, *&c.*] of the borough [*or* parish] of . These are to require you, the council [*or* overseers] of the borough [*or* parish] of , from and out of the monies in the hands of your treasurer [*or* your hands], to pay on or before the day of into the hands of *A. B.*, treasurer of the school board of the said district, the sum of being the amount required for the expenses of the

Schedule III.

said school board up to the of 18 ; and if there are no monies in the hands of your treasurer [*or* your hands] to raise the same by means of a rate.

(Signed) *C. D.*, } Members of the school board of the
E. F., } district of .
G. H., clerk of the said school board.

[Schedule IV. provides for citation of the "School Sites Acts, 1841 to 1851."]

FIFTH SCHEDULE.*

Divisions of Metropolis.

Name of Division.	Name of Division.
Marylebone.	Westminster.
Finsbury.	Southwark.
Lambeth.	City.
Tower Hamlets.	Chelsea.
Hackney.	Greenwich.

* [See sect. 37, *ante*.]

JURIES ACT, 1870.

33 & 34 VICT. CHAP. 77.

An Act to amend the Laws relating to the qualifications, summoning attendance, and remuneration of Special and Common Juries. [9th August, 1870.]

[So much only of this Act as has a bearing upon the overseers' duties is printed here. This Act is made applicable to the county of London in like manner as it applies to the county of Middlesex by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 89 (2).]

[*Preamble.*]

[Sect. 1. Repealed by the S. L. R. Act, 1893.]

Application.

II. This Act shall not apply to Scotland or Ireland.

Short titles.
6 Geo. 4, c. 50.

III. The Acts herein-after mentioned may be cited for all purposes by the short titles following ; that is to say,

An Act of the session of the sixth year of the reign of King

Sect. 3. Note.

6 Geo. 4, c. 50, may also be cited as the Juries Act, 1825 (Short Titles Act, 1896 (59 & 60 Vict. c. 14)).

George the Fourth, chapter fifty, and intituled "An Act for consolidating and amending the Laws relative to Jurors and Juries," by the short title of the County Juries Act, 1825; Sect. 3.

this Act by the short title of "The Juries Act, 1870."

IV. This Act shall be construed as one with the County Juries Act, 1825, and any Act amending the same; and such parts of the said Act and of any other Act or Acts as are inconsistent with this Act are hereby repealed. Construction and repeal.

V. In this Act— Definition of terms.

The term "overseers" shall include churchwardens, and the term "quarter sessions" shall include general sessions:

The word "juror" shall mean male persons only.

VI. Every man whose name shall be in the jurors' book for any county in England or Wales, or for the county of the city of London, and who shall be legally entitled to be called an esquire, or shall be a person of higher degree, or shall be a banker or merchant, or who shall occupy a private dwelling-house rated or assessed to the poor rate or to the inhabited house duty on a value of not less than one hundred pounds in a town containing, according to the census next preceding the preparation of the jury list, twenty thousand inhabitants and upwards, or rated or assessed to the poor rate or to the inhabited house duty on a value of not less than fifty pounds elsewhere, or who shall occupy premises other than a farm rated or assessed as aforesaid on a value of not less than one hundred pounds, or a farm rated or assessed as aforesaid on a value of not less than three hundred pounds, shall be qualified and liable to serve on special juries in every such county in England and Wales, and in London respectively. Qualification of special jurors.

VII. . . . the qualification of persons as jurors in Wales shall be the same as the qualification of persons as jurors in England. Qualification of jurors in Wales.

VIII. Aliens having been domiciled in England or Wales for ten years or upwards, if in other respects duly qualified, shall be qualified and shall be liable to serve on juries or inquests in England and Wales as if they had been natural-born subjects of the Queen; but, save as aforesaid, no man not being a Aliens to be qualified after ten years' domicile, but not otherwise.

In rural parishes overseers alone will act (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2)). Sect. 5. Note.

A part of this section repealing part of 6 Geo. 4, c. 50, s. 1, is repealed by the S. L. R. Act, 1883. Sect. 7. Note.

Sect. 8.

natural-born subject of the Queen shall be qualified to serve on juries or inquests in any court or on any occasion whatsoever.

Persons exempt from serving on juries.

IX. . . . The persons described in the schedule hereto shall be severally exempt as therein specified from being returned to serve and from serving upon any juries or inquests whatsoever, and their names shall not be inserted in the lists of the persons qualified and liable to serve on the same, but, save as aforesaid, no man otherwise qualified to serve on such juries or inquests shall be exempt from serving thereon, any enactment, prescription, charter, grant, or writ to the contrary notwithstanding.

Convicts, outlaws, &c. disqualified.

X. Provided always, that no man who has been or shall be attainted of any treason or felony, or convicted of any crime that is infamous, unless he shall have obtained a free pardon, nor any man who is under outlawry, is or shall be qualified to serve on juries or inquests in any court or on any occasion whatsoever.

Overseers to specify special jurors in list.

XI. In making out the lists of persons within their respective parishes and townships qualified to serve as jurors, the overseers shall specify which of such persons are, in the judgment of such overseers, qualified as special jurors, and shall also specify in every case the nature of the qualification and also the occupation and the amount of the rating or assessment of every such person.

Disqualification or exemption to be pleaded before revision of list.

XII. No person whose name shall be in the jury book as a juror shall be entitled to be excused from attendance on the ground of any disqualification or exemption other than illness not claimed by him at or before the revision of the list by justices of the peace, and a notice to that effect shall be printed at the bottom of every jury list.

Penalty on overseer for negligence.

XIII. If any overseer, without reasonable excuse to be allowed by the justice or justices having cognizance of the case, insert in the list of persons qualified to serve as jurors prepared by him the name of any person whose name ought not to have been inserted therein, or omit therefrom the name of any person whose name ought not to have been omitted, he shall, on summary conviction, be liable to a penalty for each offence not exceeding forty shillings.

Sect. 9.

Note.

The early part of this section is repealed by the S. L. R. Act (No. 2), 1893.

Sect. 11.

Note.

The clerk of the peace issued precepts to the overseers to make out the lists under the Juries Act, 1862 (25 & 26 Vict. c. 107), s. 4; this is now done by the clerk of the county council (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 83 (6)).

Sect. 14.

Justices to certify jury lists after revision.

XIV. Upon completing the revision of the jury lists, the justices at petty sessions shall certify in writing that they have examined such lists and that the same are, to the best of their knowledge and belief, true and proper lists of the special and common jurors; and the decision of such justices as to the qualifications of persons marked as special jurors in the lists so revised by them shall, as respects those lists, be final.

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SCHEDULE. Sect. 9.

Persons exempt from serving on Juries.

Peers.

Members of Parliament.

Judges.

Clergymen.

Roman Catholic priests.

Ministers of any congregation of Protestant dissenters and of Jews whose place of meeting is duly registered, provided they follow no secular occupation except that of a schoolmaster.

Barristers-at-law, certificated conveyancers, and special pleaders, if actually practising.

Members of the Society of Doctors of Law and advocates of the civil law, if actually practising.

Solicitors, if actually practising and having taken out their annual certificates, and their managing clerks, and notaries public in actual practice.

Officers of the courts of law and equity, and of the Admiralty and Ecclesiastical Courts, including therein the Courts of Probate and Divorce, and the clerks of the peace or their deputies, if actually exercising the duties of their respective offices.

Coroners.

Gaolers and keepers of houses of correction, and all subordinate officers of the same.

Keepers in public lunatic asylums.

Members and licentiates of the Royal College of Physicians in London, if actually practising as physicians.

Members of the Royal Colleges of Surgeons in London, Edinburgh, and Dublin, if actually practising as surgeons.

Apothecaries certificated by the Court of Examiners of the Apothecaries Company, and all registered medical practitioners and registered pharmaceutical chemists, if actually practising as apothecaries, medical practitioners, or pharmaceutical chemists respectively.

Schedule.

Officers of the navy, army, militia, and yeomanry, while on full pay.

The members of the Mersey Docks and Harbour Board.

The master, wardens, and brethren of the Corporation of Trinity House of Deptford Strond.

Pilots licensed by the Trinity House of Deptford Strond, Kingston-upon-Hull, or Newcastle-upon-Tyne, and all masters of vessels in the buoy and light service employed by either of those corporations, and all pilots licensed under any Act of Parliament or charter for the regulation of pilots.

The household servants of Her Majesty.

Officers of the Post Office, Commissioners of Customs, and officers, clerks, or other persons acting in the management or collection of the Customs, Commissioners of Inland Revenue, and officers or persons appointed by the Commissioners of Inland Revenue or employed by them or under their authority or direction in any way relating to the duties of Inland Revenue.

Sheriffs' officers.

Officers of the rural and metropolitan police.

Magistrates of the metropolitan police courts, their clerks, ushers, doorkeepers, and messengers.

Members of the council of the municipal corporation of any borough, and every justice of the peace assigned to keep the peace therein, and the town clerk and treasurer for the time being of every such borough, so far as relates to any jury summoned to serve in the county where such borough is situate.

Burgesses of every borough in and for which a separate court of quarter sessions shall be holden so far as relates to any jury summoned for the trial of issues joined in any court of general or quarter sessions of the peace in the county wherein such borough is situate.

Justices of the peace so far as relates to any jury summoned to serve at any sessions of the peace for the jurisdiction of which he is a justice.

Officers of the Houses of Lords and Commons.

POOR LAW LOANS ACT, 1871.

34 & 35 VICT. CHAP. 11.

An Act to make further provision in reference to Loans obtained under the Poor Law Acts. [24th April, 1871.]

[Preamble recited the Poor Law Amendment Acts, 1834 (4 & 5 Will. 4, c. 76), and 1868 (31 & 32 Vict. c. 122); and the Union Loans Act, 1869 (32 & 33 Vict. c. 45).]

[Sect. 1. *Extension of time for repayment of money borrowed before 32 & 33 Vict. c. 45*: Repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).] Sect. 1.

II. If any guardians or managers having borrowed or hereafter borrowing money under the authority of the Acts referred to shall be able at any time to obtain a loan at a lower rate of interest than that secured by the charge previously made by them, they may apply to the Poor Law Board for an order to enable them to redeem the balance of the loan, and to borrow so much money as may be necessary for that purpose; and if the said board shall issue their order in that behalf the said guardians or managers may borrow the requisite amount to redeem such balance, and charge the fund to which the original loan was charged with the repayment of this additional loan in so many instalments as shall be outstanding at the time when the loan is redeemed, but no more: Boards of guardians and managers empowered to borrow money at lower rate of interest to redeem security at a higher rate.

Provided that in the event of any loan outstanding at the time of the passing of this Act, no such redemption shall take place without the consent of the person or persons to whom the loan shall be owing.

[Sect. 3. *Half-yearly payments may be made of annual instalments*: Repealed and replaced by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 1 (3).]

IV. This Act may be cited as "The Poor Law Loans Act, 1871." Short title.

V. The words herein contained shall be construed as in the Poor Law Amendment Act, 1834, and the Acts amending and extending the same. Construction. 4 & 5 Will. 4, c. 76.

Sect. 2. Note.

For "Poor Law Board" now read "Local Government Board" (34 & 35 Vict. c. 70). This section is now in effect replaced by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2 (4), which dispenses with the necessity of the consent of the Local Government Board to the guardians borrowing money to pay off an outstanding loan. Guardians who, since the passing of this Act, have borrowed monies to be repaid at stipulated times, cannot even with the authority of an order of the Local Government Board under this section, compel the lender to accept against his will repayment otherwise than in accordance with the contract (*West Derby Union* v. *Metropolitan Life Assurance Society*, [1897] A. C. 647; 66 L. J. Ch. 726; 77 L. T. 284; 61 J. P. 820).

METROPOLITAN POOR ACT, 1871.

34 & 35 VICT. CHAP. 15.

An Act to amend the Metropolitan Poor Act, 1867.

[25th May, 1871.]

[Preamble recited the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6).]

Application of 30 & 31 Vict. c. 6, 32 & 33 Vict. c. 63, to ships, &c.

[I.] All the provisions of the said Act, as amended by the subsequent Act of 1869, which relate to the procuring of any buildings for the purpose of an asylum under that Act shall apply to any ship, vessel, hut, tent, or other temporary erection which may be used by the managers, with the approval of the Poor Law Board, for the reception of paupers, or otherwise for the purposes of the asylum, whether the same shall have been acquired or used prior to the passing of this Act, or shall be acquired or used hereafter; and such ship, vessel, hut, tent, or other temporary erection shall for all the purposes of the first-mentioned Act be deemed to be an asylum specially provided under it.

Construction. 30 & 31 Vict. c. 6.

II. This Act shall be construed as and shall be taken to be incorporated with the Metropolitan Poor Act, 1867.

PRIVATE CHAPELS ACT, 1871.

34 & 35 VICT. CHAP. 66.

An Act to amend and define the Law relating to Private Chapels, and to Chapels belonging to Colleges, Schools, Hospitals, Asylums, and other public Institutions.

[14th August, 1871.]

[*Preamble.*]

[This Act is printed here as applying to the licensing of clergymen to act as chaplains in workhouses and asylums, &c.]

Bishop may license clergyman of Church of England to

[I.] The bishop of the diocese within which any chapel belonging to any college, school, hospital, asylum, or public or charitable institution is situated, whether consecrated or unconsecrated, may license a clergyman of the Church of England to serve such chapel and administer therein the

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34 & 35 Vict. c. 15. Sect. 1. Note.

The provisions herein referred to are contained in sect. 15 of the Metropolitan Poor Act, 1867, and sect. 11 of the Metropolitan Poor Amendment Act, 1869.

sacrament of the Lord's Supper, and perform such other offices and services of the Church of England as shall be specified in such licence, provided that the bishop shall not include in any such licence the solemnization of marriage, and may, if he think fit, revoke the same at any time. Sect. 1. certain private chapels; and revoke such licence.

II. The minister officiating in such chapel shall, with respect to the performance of the offices and services of the church specified in such licence, be subject to no control or interference on the part of the incumbent of the parish or district in which such chapel is situate; but nothing herein contained shall prejudice or affect the right of such incumbent to the entire cure of souls throughout such parish or district elsewhere than within such institution and the chapel thereof. Status of minister, and saving of rights of incumbent.

III. The offertory and alms collected at any chapel subject to the provisions of this Act shall be disposed of as the minister thereof shall determine, subject to the direction of the ordinary. Offertory.

IV. This Act may be cited as "The Private Chapels Act, 1871." Short title.

LOCAL GOVERNMENT BOARD ACT, 1871.

34 & 35 VICT. CHAP. 70.

An Act for constituting a Local Government Board, and vesting therein certain functions of the Secretary of State and Privy Council concerning the Public Health and Local Government, together with the powers and duties of the Poor Law Board. [14th August, 1871.]

[*Preamble.*]

Preliminary.

[I.] This Act may be cited as "The Local Government Board Act, 1871." Short title.

In addition to the appointment of a chaplain for the workhouse under art. 153 of the Gen. Cons. Ord., July 24th, 1847, the guardians may also appoint and pay a Roman Catholic priest or Nonconformist minister to attend to the religious wants of the inmates of the workhouse, by virtue of art. 1 of General Order, August 19th, 1867, which provides that "the guardians may employ such persons as they shall deem requisite in or about the workhouse or workhouse premises, or on the land occupied for the employment of the pauper inmates of the workhouse, or otherwise in or about the relief of the indoor poor, upon such terms and conditions as shall appear to them to be suitable" (*Reg.* v. *Haslehurst*, 13 Q. B. D. 253; 53 L. J. M. C. 127; 51 L. T. 95). Sect. 2. Note.

Sect. 2. *Establishment of Local Government Board.*

Establishment of Local Government Board.

II. A board shall be established, to be called the Local Government Board, and all powers and duties vested in or imposed on the Poor Law Board by the several Acts of Parliament relating to the relief of the poor and any other Acts, or vested in or imposed on one of Her Majesty's principal Secretaries of State by the enactments in that behalf mentioned in the first part of the schedule annexed hereto, so far as such powers and duties relate to England, or vested in or imposed on Her Majesty's most honourable Privy Council by the enactments in that behalf specified in the second part of the said schedule, shall be transferred to and imposed on the said Local Government Board, and except as otherwise provided by this Act, shall be exercised and performed by such board in like manner and form, and subject to the same conditions, liabilities, and incidents respectively as such powers and duties might before the passing of this Act have been exercised and performed by the authorities in whom the same where then vested respectively, or as near thereto as circumstances admit.

Constitution of Local Government Board.

III. The Local Government Board shall consist of a president to be appointed by Her Majesty, and to hold office during the pleasure of Her Majesty, and of the following *ex-officio* members, that is to say, the Lord President of Her Majesty's most honourable Privy Council, all Her Majesty's principal Secretaries of State for the time being, the Lord Privy Seal, and the Chancellor of the Exchequer.

* * * * *

The Local Government Board may appoint in writing such secretaries, assistant secretaries, inspectors, auditors, clerks, messengers, and other officers as the board may, with the sanction of the Treasury, determine.

No payment shall be made in respect of their duties under this Act to the *ex-officio* members of the Local Government Board, but there shall be paid out of monies provided by Parliament to the president, secretaries, and other officers of the board such salaries as the Treasury may from time to time determine: Provided, that the appointment of any officer to a new office made by the Local Government Board in pursuance of this section shall be deemed to be temporary only until the salary of such office has been provided by for Parliament.

Sect. 2. Note. The Poor Law Board was created by, and succeeded to the powers, &c., of the Poor Law Commissioners, under the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109).

Sect. 3. Note. As to the appointment and remuneration of auditors, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32; and the District Auditors Act, 1879 (42 Vict. c. 6).

Sect. 4.

President and one of the secretaries may sit in Parliament.

IV. The president and one of the secretaries of the Local Government Board shall at the same time be capable of being elected to and of voting in the Commons House of Parliament, and the office of president shall be deemed to be an office included in schedule (H.) of the Representation of the People Act, 1867; in schedule (H.) of the Representation of the People (Scotland) Act, 1868; and in schedule (E.) of the Representation of the People (Ireland) Act, 1868.

30 & 31 Vict. c. 102.
31 & 32 Vict. c. 48.

Seal, style, and acts of board.

31 & 32 Vict. c. 49.

V. The Local Government Board may adopt an official seal, and describe themselves generally by the style and title of "The Local Government Board," and, save as herein-after provided, any act to be done or instrument to be executed by or on behalf of the Local Government Board may be done or executed in the name of that board by the president or by any member of the Local Government Board, or by a secretary or assistant secretary, if such secretary or assistant secretary is authorized to do or execute the same by any general order of the Local Government Board.

A rule, order, or regulation made by the Local Government Board shall be valid if it is made under the seal of the board, and signed by the president or one of the *ex-officio* members of the board, and countersigned by a secretary or assistant secretary; and the production of such *primâ facie* evidence of any of the said rules, orders, or regulations as is required by the Documentary Evidence Act, 1868, with respect to the rules, orders, or regulations of the Poor Law Board, shall, until the contrary is shown, be a sufficient proof that any such rule, order, or regulation of the Local Government Board was duly made.

31 & 32 Vict. c. 37.

Distribution of business.

VI. . . . The Local Government Board may, by order, distribute the business to be performed under the Local Government Board amongst the several officers and persons transferred to the board by this Act in such manner as the Local Government Board may think expedient.

Construction of Acts and documents and power of Local Government Board.

VII. In the construction of and for the purposes of any Act of Parliament, contract, or other document passed, entered into, or made before the establishment of the Local Government Board, but so far only as may be necessary for exercising the powers and discharging the duties by this Act transferred to and imposed on the Local Government Board, the name of such board shall, according to circumstances, be deemed to

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Sect. 5.

Note.

As to what constitutes a "general order," see the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 15.

The Documentary Evidence Act, 1868, is amended by the Documentary Evidence Act, 1882 (45 Vict. c. 9), making copies of rules, &c., printed under the superintendence or authority of H.M. Stationery Office evidence.

Sect. 7.

be substituted for the Poor Law Board, one of Her Majesty's principal Secretaries of State, or Her Majesty's most honourable Privy Council, as the case may require; and any act or thing which might, if this Act had not passed, have been done by the Poor Law Board, or by one of Her Majesty's principal Secretaries of State, or by Her Majesty's most honourable Privy Council, so far as relates to the powers and duties hereby transferred, may be done by the Local Government Board.

Duplicate returns to be sent to Local Government Board.

VIII. Where under an Act, whether passed before or after the passing of this Act, any return relative to any rate, toll, tax, or due raised in England (other than such as is raised for the public revenue of the United Kingdom) is required to be sent to one of Her Majesty's Secretaries of State or any other department of the Government, a duplicate of such return shall in like manner be sent to the Local Government Board, and any person failing to send the same shall be subject to the like penalties as a person neglecting to send any return under the Local Taxation Returns Act, 1860.

23 & 24 Vict. c. 51.

Sect. 2.

SCHEDULE REFERRED TO IN THE FOREGOING ACT.

PART I.

Powers and Duties of Secretary of State.

Subject.	Act.
Registration of births, deaths, and marriages -	6 & 7 Will. 4, c. 86. 7 Will. 4 & 1 Vict. c. 22.
* * * *	* *
Baths and wash-houses - - - -	9 & 10 Vict. c. 74. 10 & 11 Vict. c. 61.
Public improvements - - - -	23 & 24 Vict. c. 30.
Towns improvement - - - -	10 & 11 Vict. c. 34.
* * * *	* *
Returns. Local Taxation - - -	23 & 24 Vict. c. 51. And any Acts amending the said Acts, and conferring powers on the said Secretary of State.

PART II.

Powers and Duties of Privy Council.

Subject.	Act.
* * * *	* *
Vaccination - - - - -	30 & 31 Vict. c. 84. And any Acts amending the said Acts, and conferring powers on the said Privy Council.

VACCINATION ACT, 1871.

34 & 35 VICT. CHAP. 98.

An Act to amend the Vaccination Act, 1867.*
[21st August, 1871.]

Preliminary.

[I.] This Act may be cited as "The Vaccination Act, 1871." Short title.

[Sect. 2. *Commencement of Act:* Repealed by the S. L. R. (No. 2) Act, 1893.]

III. This Act shall be construed as one with the Vaccination Act of 1867, in this Act referred to as the principal Act, and [*sic*] those Acts and this Act may be cited together as "The Vaccination Acts, 1867 and 1871." Construction. 30 & 31 Vict. c. 84.

IV. In this Act the term "parent" includes any person having the custody of a child. Definition of "parent."

Vaccination Officer.

V. Whereas under the principal Act the guardians of any union or parish may pay any officer appointed by them to prosecute persons charged with offences against that Act or otherwise to enforce its provisions, and it is expedient to render obligatory the appointment of such an officer: Be it enacted Appointment of vaccination officer.

* Throughout this Act for "Poor Law Board" now read "Local Government Board" (34 & 35 Vict. c. 70).

See also Vaccination Act, 1867 (30 & 31 Vict. c. 84), s. 35. **Sect. 4.**

Note.

See sect. 28 of 30 & 31 Vict. c. 84, for the power of guardians to pay officers, and sect. 2 with regard to the division of unions and parishes. **Sect. 5.**

Note.

If the guardians do not appoint and pay a vaccination officer, a *mandamus* will issue at the suit of the Local Government Board to compel them to do so; and it is no answer to an application for a *mandamus* that the Local Government Board may themselves appoint such an officer, upon default of the guardians, under the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 7 (*Reg.* v. *Leicester Guardians* [1899] 2 Q. B. 632).

In the metropolis the Local Government Board are empowered to appoint officers, upon default of the guardians, by sect. 80 of the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6).

In order to quiet doubts as to the powers of the Local Government Board to make rules, &c., under this section, a more precise statement of such powers is made in the Vaccination Act, 1874 (37 & 38 Vict. c. 75).

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that the guardians of every union and parish shall appoint and pay one or more of such officers (in this Act referred to as "vaccination officers").

The provisions of the principal Act with respect to the division of unions and parishes into vaccination districts shall extend to authorize the division of such unions or parishes into districts for the purpose of the duties of vaccination officers, so however that a district of one vaccination officer shall (unless the Local Government Board otherwise direct) coincide either with a vaccination district or districts under the principal Act or with a district or districts of a registrar of births and deaths.

Subject to the provisions of this Act, the Local Government Board shall have the same powers with respect to guardians and vaccination officers in matters relating to vaccination as they have with respect to guardians and officers of guardians in matters relating to the relief of the poor, and may make rules, orders, and regulations accordingly, and all enactments relating to such powers, and to such orders, rules, and regulations, shall apply *mutatis mutandis;* and the Local Government Board shall also from time to time frame, provide, and distribute appropriate books and forms for the use of vaccination officers, public vaccinators, and medical practitioners under the principal Act and this Act.

Duties of vaccination officer.

VI. The vaccination officers shall perform all the duties imposed by the principal Act on the registrar of births and deaths, except the duty of giving the notices mentioned in section fifteen of the principal Act, and the principal Act shall be construed as if the words "vaccination officer" were substituted for the words "registrar of births and deaths," throughout that Act, except section fifteen and any other part of that Act relating to that section, and except that all fees received by the vaccination officer as such shall be accounted for to the guardians and paid to the fund out of which the expenses of the guardians under the principal Act are paid.

Transmission of certificates to vaccination officer.

VII. Every certificate of a child being unfit for or insusceptible of successful vaccination if given by a public vaccinator

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Note.

For the duties transferred from the registrar to the vaccination officer, see sects. 24, 25 of the Vaccination Act, 1867 (30 & 31 Vict. c. 84).

As to the fund out of which the expenses of the guardians are paid, see sect. 28 of the Vaccination Act, 1867.

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Note.

The second paragraph of this section supersedes sect. 23 of the Vaccination Act, 1867 (30 & 31 Vict. c. 84).

A form of certificate issued by the Poor Law Board under the authority of sect. 15 of this Act, expressed in the alternative, *either* that the child had been not less than three times unsuccessfully

shall, instead of being delivered by him to the parent, be transmitted by such public vaccinator, and if given by any other medical practitioner shall be transmitted by the parent of such child, to the vaccination officer, in like manner as if it was a certificate of successful vaccination, and within seven days after the examination of the child upon which such certificate is founded, and the public vaccinator shall, upon request, and without fee or charge, deliver to the parent a duplicate of any such certificate transmitted by him. Sect. 7.

Every certificate of successful vaccination shall be transmitted within seven days after it is ascertained that the operation has been successfully performed; and where a medical practitioner who is not a public vaccinator inspects a child to ascertain the result of the operation of vaccination, such medical practitioner, as soon as he has ascertained that the operation has been successfully performed, shall deliver to the parent causing the child to be vaccinated a certificate of successful vaccination, in the proper form, and duly filled up and signed by him.

Every person who acts in contravention of or fails to comply with any provision of this section shall be liable on summary conviction to a penalty not exceeding twenty shillings; and every person who wilfully signs a false certificate or duplicate under this section shall be guilty of a misdemeanour, and be liable to fine or to imprisonment with or without hard labour for a period not exceeding two years.

No fees shall be payable for the registration of any certificate of vaccination under the principal Act or this Act.

Transmission to vaccination officer of list of births and deaths.

VIII. Every registrar of births and deaths for any place shall, once at least in every month, transmit, by post or otherwise, to each vaccination officer whose district is wholly or partly comprised in such place, a return, certified under the hand of the registrar to be a true return, of all births and of all deaths of infants under twelve months of age which have, since the date of the last return, been registered by such registrar as having occurred in the district of the vaccination officer to whom the return is sent.

The registrar shall, whether he is or is not also the vaccination officer, be entitled to a fee of twopence for every birth or death

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vaccinated and was insusceptible of vaccination, *or* that the child had already had small-pox. *Held* that a parent to whom a certificate that the child had already had small-pox was given, and who failed to forward it to the vaccination officer, was not liable to a penalty under this section (*Broadhead* v. *Holdsworth*, 2 Ex. D. 321; 46 L. J. M. C. 172; 36 L. T. (N. S.) 320; 25 W. R. 306; 41 J. P. 327). Sect. 7. Note.

This section is in substitution for the repealed sect. 27 of the Vaccination Act, 1867 (30 & 31 Vict. c. 84). Sect. 8. Note.

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entered in such return ; and such fee shall be paid to him out of the same funds and by the same persons, and in the like manner as the fees for giving the notices under section fifteen of the principal Act.

The returns under this section shall be made in such form and contain such particulars as may be from time to time prescribed by the Registrar-General of Births and Deaths in England, with the approval of the Local Government Board ; and forms necessary for such purpose and for the purpose of the principal Act shall be supplied by the said Registrar-General to every registrar of births and deaths.

Payment of fee by re-vaccinated person where not inspected.

IX. Where the operation of re-vaccinating any person is performed on the application of such person by the public vaccinator without charge to such person, the public vaccinator shall deliver to such person a notice requiring him to attend at the same place on the same day in the following week, in order that he may be inspected, and the result of the operation ascertained, and stating that in default he will be liable as in this section mentioned, and the public vaccinator, if required, shall deliver to the person re-vaccinated a certificate of the result of the operation of re-vaccination ; and if such person fail to comply with such notice or to permit the public vaccinator or his deputy to ascertain the result of the operation, he shall pay a fee for such re-vaccination of two shillings and sixpence, which fee shall be a debt due from him to the guardians of the union or parish in which such public vaccinator acts, and all such fees shall be paid to and all expenses of the guardians incurred under this section shall be paid out of the fund out of which the expenses of the guardians under the principal Act are paid.

Penalties.

Penalty for preventing vaccinator from taking lymph.

X. Every person who prevents any public vaccinator from taking from any child lymph as provided by section seventeen of the principal Act shall be liable, on summary conviction, to pay a penalty not exceeding twenty shillings.

Amendment of legal proceedings for penalties.

XI. Proceedings under section thirty-one of the principal Act may be taken and proceeded with with respect to any child

Sect. 9.

Note.

As to payments for re-vaccination, see sect. 8 of the Vaccination Act, 1867 (30 & 31 Vict. c. 84).

Sect. 10.

Note.

Repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

Sect. 11.

Note.

The words in italics are repealed by the Vaccination Act, 1898 (61 & 62 Vict. c. 49), during the continuance of that Act.

As to making complaints and laying informations under the

Sect. 11.

who is not within the union or parish for which a vaccination officer acts, if either the child or its parent was within such union or parish at the time of the information being given by such vaccination officer.

Where any parent of a child fails to produce such child when required so to do by any summons under the principal Act, such parent shall be liable on summary conviction to a penalty not exceeding twenty shillings.

Any complaint may be made and any information laid for an offence under the Vaccination Acts, 1867 and 1871, at any time not exceeding twelve months from the time when the matter of such complaint or information arose and not subsequently.

Where a person is charged with the offence of neglecting to [*take or*] cause [*to be taken*] any child to be vaccinated, and on the defence made by such person it appears to the justices having cognizance of the case that such person is not guilty of such offence but has been guilty of the offence of not transmitting any certificate required by the principal Act or this Act with respect to the vaccination of such child, the justices may convict such person of the last-mentioned offence in like manner as if he had been charged therewith.

The defendant in any proceedings under the principal Act or this Act may appear by any member of his family, or any other person authorized by him in this behalf.

Miscellaneous.

Certificate of successful vaccination.

XII. Where it appears to the public vaccinator of any district, upon personal examination of any child resident in such district who has not been successfully vaccinated by him, that such child has been successfully vaccinated, the public vaccinator may, on the request of the parent of such child, grant a certificate to that effect, and such certificate shall be transmitted and have the same effect as if it were a certificate of successful vaccination by the public vaccinator who gave the certificate.

Sect. 11.

Note.

Vaccination Acts, see sect. 33 of the Vaccination Act, 1867 (30 & 31 Vict. c. 84).

On May 10th, 1872, a parent received a notice under sect. 31 of the Vaccination Act, 1867, requiring him to have his child vaccinated within fourteen days. Having disregarded the notice he was summoned on June 24th, 1873, before justices, who made an order that he should produce the child to be vaccinated. *Held* that information having been laid at a time exceeding twelve months from the time when the matter of the information arose, the parent could not be convicted without a fresh notice being given (*Knight* v. *Halliwell*, L. R. 9 Q. B. 412; 43 L. J. M. C. 113; 30 L. T. (N. S.) 359; 22 W. R. 689; 38 J. P. 470). And see notes to 30 & 31 Vict. c. 84, s. 31, *ante*, pp. 1098—1100.

Sect. 13.

Vaccination by Poor Law medical officer of persons in the house with a person ill of small-pox.

XIII. Where the medical officer of any board of guardians is in attendance as such medical officer upon a person sick of small-pox, and vaccinates any person who is resident in the same house with the sick person and has never been vaccinated or had the small-pox, or re-vaccinates any person who is resident in the same house with the sick person and has never been re-vaccinated, and is of the age at which successful re-vaccination by a public vaccinator is paid for under the regulations of the Local Government Board for the time being in force, such medical officer shall, upon transmitting the same certificates as he would be required to transmit if he were the public vaccinator for the district, be entitled to be paid in respect of every such case of vaccination and re-vaccination the same sum out of the same fund as he would be entitled to receive if he were the public vaccinator for the district.

Extension of 30 & 31 Vict. c. 84, s. 9, as to contracts for vaccination.

XIV. The powers of the Local Government Board under section nine of the principal Act, with respect to contracts for vaccination entered into under the provisions of that Act, shall extend to contracts for vaccination entered into under the provisions of any other Act.

Alteration of forms.

XV. The Local Government Board may, by order, from time to time repeal, alter, and add to the forms contained in the schedule to the principal Act, and the reference in the principal Act or this Act to the forms in such schedule or to any form shall be construed to refer to the forms prescribed by any such order.

[Sect. 16. Substitution of Local Government Board, when formed for Poor Law Board and Privy Council: See Local Government Board Act, 1871 (34 & 35 Vict. c. 70).]

[Sect. 17. *Repeal of part of* 30 *&* 31 *Vict. c.* 84: Repealed by the S. L. R. Act, 1883.]

[Schedule: Repealed by the S. L. R. Act, 1883.]

Sect. 13. Note.

The fees to which a public vaccinator is entitled are settled by art. 3 of the Vaccination Order, 1898.

PAUPER INMATES DISCHARGE AND REGULATION ACT, 1871.

34 & 35 VICT. CHAP. 108.

An Act to regulate and control the Discharge of Paupers from Workhouses and Wards provided for the Casual Poor.

[21st August, 1871.]

[*Preamble.*]

[I.] This Act may be cited as "The Pauper Inmates Discharge and Regulation Act, 1871." Short title.

II. This Act shall not apply to Scotland or Ireland. Extent.

III. In this Act, unless the context otherwise requires, words have the same meaning as in the Poor Law Amendment Act, 1834, and the Metropolitan Poor Act, 1867, and the several Acts amending and extending those Acts respectively. Interpretation. 4 & 5 Will. 4, c. 76. 30 & 31 Vict. c. 6.

The term "casual ward" means any ward or wards, building or premises, set apart or provided for the reception and relief of destitute wayfarers and wanderers:

The term "casual pauper" means any destitute wayfarer or wanderer applying for or receiving relief:

The term "union" includes any parish under a separate board of guardians:

The term "Poor Law Board" in this Act shall be construed to apply to the Local Government Board.

IV. The guardians of any union may direct that any pauper inmate of the workhouse or the paupers of any class therein, Certain paupers may be detained in the

"Casual paupers" under this section must not be confounded with "casual poor," who are those poor persons who are not settled in the parish, nor reside there, but who happen casually to be there at a time, when from some accident occurring to them, or from their being suddenly afflicted with some illness, they are obliged to resort to the parish officers for relief (*Reg.* v. *Cuckfield*, 5 E. & B. 523; 25 L. J. M. C. 4; 1 Jur. (N. S.) 1047; 20 J. P. 196). These must be relieved, and they are not removable to their place of settlement whilst necessarily detained by their illness, or the effects of the accident, &c. (*Reg.* v. *St. James, Bury St. Edmunds*, 10 East, 25). Sect. 3. Note.

The general rule as to quitting a workhouse is contained in art. 115 of the Gen. Cons. Order, July 24th, 1847:— Sect. 4. Note.

Art. 115. "Any pauper may quit the workhouse upon giving to the master, or (during his absence or inability to act to the

Sect. 4.

workhouse for limited periods.

shall be detained in the workhouse, after giving notice to quit the same, for times not exceeding the limited periods hereinafter mentioned; that is to say,

1. If the pauper has not previously discharged himself from the workhouse within one month before giving the notice, twenty-four hours:

2. If he has discharged himself once or oftener within such month, forty-eight hours:

3. If he has discharged himself more than twice within two months before giving the notice, seventy-two hours:

And every such pauper shall be detained in the workhouse for the time specified accordingly.

Provided as follows:

Provisoes.

(1) That the guardians may from time to time alter or rescind such direction; and they, or, in the interval between their meetings, the visiting committee whose direction shall be entered in the visitors' book, may exempt, either wholly or partially, any pauper from the operation of this section:

(2) That the master or other person having charge of the workhouse may, if the board of guardians be not sitting or the visiting committee be not in attendance, discharge any pauper to whom this section shall apply before the expiration of any such period as aforesaid if any circumstances shall in his opinion require this to be done, and shall report the facts of the case to the board of guardians at their next meeting:

(3) That this section shall not apply to casual paupers.

[Sect. 5. *Discharge and detention of casual paupers:* Repealed and replaced by the Casual Poor Act, 1882 (45 & 46 Vict. c. 36), s. 4.]

Sect. 4.

Note.

matron, a reasonable notice of his wish to do so; and in the event of any able-bodied pauper, having a family, so quitting the house, the whole of such family shall be sent with him, unless the guardians shall, for any special reason, otherwise direct; and such direction shall be in conformity with the regulations of the commissioners [Local Government Board] with respect to relief in force at the time."

This section is amended by the Poor Act, 1899 (62 & 63 Vict. c. 37), s. 4, by the insertion after the words "seventy-two hours" the following words: "If he has in the opinion of the guardians, discharged himself frequently without sufficient reason, one hundred and sixty-eight hours"; and by inserting as an additional proviso at the end of the section the following words: "(4) That a direction requiring a larger notice than seventy-two hours to be given must be entered on the minutes, and must specify the name or names of the paupers to whom it applies."

Sect. 6.

Diet and discipline of casual paupers. 5 & 6 Vict. c. 57.

VI. Every casual pauper shall, subject to the provisions of this Act, be admitted, dieted, and set to work and discharged in such manner and shall be subject to such regulations as the Poor Law Board shall prescribe, and the work so prescribed shall supersede any task of work prescribed under section five of the Poor Law Amendment Act, 1842.

Casual paupers absconding, &c. to be deemed idle and disorderly persons under 5 Geo. 4, c. 83, s. 3;

VII. Any pauper who—

(1) Absconds or escapes from or leaves any casual ward before he is entitled to discharge himself therefrom; or

(2) Refuses to be removed to any workhouse or asylum under the provisions of this Act; or

(3) Absconds or escapes from or leaves any workhouse or asylum during the period for which he may be detained therein; or

(4) Refuses or neglects, whilst an inmate of any casual ward, workhouse, or asylum to do the work or observe the regulations prescribed; or

(5) Wilfully gives a false name or makes a false statement for the purpose of obtaining relief,

shall be deemed an idle and disorderly person within the meaning of section three of the Vagrancy Act, 1824.

and after first conviction, or destroying clothes, rogues and vagabonds, under 5 Geo. 4, c. 83 s. 4.

And every pauper who—

(1) Commits any of the offences before mentioned after having been previously convicted as an idle and disorderly person; or

(2) Wilfully destroys or injures his own clothes or damages any of the property of the guardians,

shall be deemed a rogue and vagabond within the meaning of section four of the same Act.

Provided, that in case of a pauper suffering from bodily disease of an infectious or contagious character absconding or

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Sect. 6. Note.

Regulations as to casual paupers under this section are contained in the Gen. Ord. of the Local Government Board, dated December 18th, 1882.

Sect. 7. Note.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 44, the word *pauper* in the above section shall include any person who shall obtain relief by wilfully giving a false name or making a false statement, and such person may be proceeded against as an idle and disorderly person at any time while he continues to receive such relief.

Sect. 14 of the Criminal Justice Act, 1855, is repealed by the S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 55, and replaced by sect. 28 of that Act.

See the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 22, for the power of guardians to detain indoor paupers suffering from contagious or infectious diseases.

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escaping from or leaving any workhouse or asylum as aforesaid, the justice convicting him of the offence may suspend the execution of the warrant of commitment, and may order the pauper to be taken back to such workhouse or asylum, there to remain until he shall be cured or otherwise lawfully discharged therefrom, and when he shall be cured the warrant of commitment shall be put in execution by order of the said justice or some other justice having jurisdiction in the place; any officer of such workhouse or asylum, or any constable, may apprehend the pauper who may have so absconded or escaped from or left the same, and take him before a justice without having previously obtained a summons or warrant, and upon the order of the justice take him back to the workhouse or asylum.

And provided also, that where any casual pauper is taken before a justice charged with any offence under this Act the justice may if he think fit, grant a certificate to the person who has preferred the charge for the amount of the expenses incurred by him in relation thereto, and such certificate shall have the same effect, and the amount mentioned therein shall be paid and recovered in like manner, as in the case of a certificate granted by justices in petty sessions under section fourteen of the Criminal Justice Act, 1855.

18 & 19 Vict. c. 126.

Workhouse officers may take disorderly paupers before justices, without warrant.

VIII. The master or porter of the workhouse or the officer having charge of the casual wards of any union may take before a justice having jurisdiction therein any inmate of the workhouse or casual wards who shall be charged with any disorderly conduct, offence, or misbehaviour therein, punishable upon summary conviction, without any summons or warrant, and may, if such inmate shall be committed by the justice to gaol and no constable shall be present to execute the warrant, convey him to such gaol unless a constable shall be found to whom he may deliver him to be conveyed, according to the exigency of the warrant; and for the purposes of this clause such master, porter, or officer shall have all the powers and authorities of a constable.

Guardians to provide proper casual wards.

IX. The guardians of every union shall provide within their respective unions such casual wards, with such fittings and furniture as the Poor Law Board, in their judgment, regard being had to the number of casual paupers likely to require relief therein, shall consider necessary.

Provision as to asylums for the casual poor in the metropolis.

30 & 31 Vict. c. 6.

X. Where any district hereafter formed by the Poor Law Board for the relief of the casual poor or any other class or classes under section six of the Metropolitan Poor Act, 1867, is conterminous with any district previously formed under the same section for the relief of some other class or classes, the Poor Law Board may by order direct that the managers of any such last-mentioned district shall be the managers also of all

or any of the districts conterminous with it which may be subsequently formed; and the expenses of providing any asylum for the reception and relief of the casual poor under section five of the Metropolitan Poor Act, 1867, and the maintenance of such poor therein, shall be repayable in like manner as expenses for the provision of wards for the same class of poor under section sixty-nine of the said Act. Sect. 10.

XI. The provisions contained in this Act with respect to the discharge and detention of paupers shall take effect and may be enforced notwithstanding the provision contained in section five of the Poor Law Amendment Act, 1842, limiting the time for which inmates of workhouses may be detained therein for the performance of a task of work. This Act to take effect notwithstanding sect. 5 of 5 & 6 Vict. c. 57.

PREVENTION OF CRIMES ACT, 1871.

34 & 35 VICT. CHAP. 112.

An Act for the more effectual Prevention of Crime.

[21st August, 1871.]

* * * * *

XIV. Where any woman is convicted of a crime, and a previous conviction of a crime is proved against her, any children of such woman under the age of fourteen years who may be under her care and control at the time of her conviction for the last of such crimes, and who have no visible means of subsistence, or are without proper guardianship, shall be deemed to be children to whom in Great Britain the provisions of the Industrial Schools Act, 1866, and in Ireland the provisions of the Industrial Schools (Ireland) Act, 1868, apply, and the court by whom such woman is convicted, or two justices or a magistrate, shall have the same power of ordering such children to be sent to a certified industrial school as is vested in two justices or a magistrate by the fourteenth section of the Industrial Schools Act, 1866, and by the eleventh section of the Industrial Schools (Ireland) Act, 1868, in respect of the children in the said sections described. As to care of children of women convicted of crimes. 29 & 30 Vict. c. 118. 31 & 32 Vict. c. 25.

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Sect. 11. Note.

Sect. 5 of the Poor Law Amendment Act, 1842, limits the time for the detention of a pauper for the performance of a task of work to four hours from breakfast time in the morning succeeding the admission of such person into the workhouse.

Sect. 14. Note.

See sect. 14 of the Industrial Schools Act, 1866, as to the children to whom the provisions of that Act apply.

POOR LAW LOANS ACT, 1872.

35 & 36 VICT. CHAP. 2.

An Act to extend and explain the Law relating to Loans for purposes connected with the Relief of the Poor.

[25th March, 1872.]

[*Preamble.*]

Extension of limit of expenditure for metropolitan district schools.

[*I.*] *The limit imposed by the sixteenth clause of the Poor Law Amendment Act*, 1851, *upon the amount to be raised for the purpose of building, fitting up, and furnishing schools for school districts formed in the metropolis under the Poor Law Amendment Act*, 1844, *or any Act extending or explaining the same, shall be increased from one-third to two-thirds of the annual average of the expenditure therein referred to.*

Application of 30 & 31 Vict. c. 106, s. 14, to the metropolis.

II. The fourteenth clause of the Poor Law Amendment Act, 1867, *which increases the limit of the amount to be raised for the purpose of building workhouses, shall be deemed to have applied and to apply to the metropolis, anything in the Metropolitan Poor Act*, 1867, *to the contrary notwithstanding.*

[Sect. 3. *Sect. 5 of the Union Loans Act*, 1869 (32 & 33 *Vict. c.* 45), *explained:* Repealed by the S. L. R. Act, 1883.]

Repayment of advances to unions and parishes.

IV. Whereas persons have advanced money or incurred personal liabilities on behalf of the guardians of their union or parish at the request of such guardians, and for the benefit of the union or parish, when the borrowing powers of such guardians have been exhausted, and the provisions of the existing law do not enable such persons to be reimbursed their advances, or to be released from their liability, and it is expedient to provide a remedy for them: Be it therefore enacted, that where before the passing of this Act any guardian or other person shall at the request of the board of guardians of a union or parish have advanced money or incurred any such liability as aforesaid, for the benefit of the union or parish, to enable the

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Sects. 1, 2. Note.

These sections are in effect repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2 (6), which provides that "all enactments in the Acts relating to the relief of the poor touching the purposes for which and the amount to which guardians of unions and managers of any school or asylum district to whom this section applies, shall be repealed without prejudice to anything done thereunder," and are replaced by the other sub-sections of that section as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

Sect. 4. Note.

This section is now practically obsolete by the lapse of time.

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workhouse or other works of such union or parish to be completed, when the borrowing powers of such board of guardians were exhausted, the Local Government Board may by their order, on the application of the board of guardians, empower such board to reimburse such guardian or person the amount so advanced, or release him from his liability by the payment of the requisite amount to him or to the person or persons to whom he may be liable, and for this purpose to borrow money, if the said Local Government Board shall think proper, to be repaid in the manner required in respect of loans advanced to guardians; and, in the case of a union, to charge the sums, whether paid at once or borrowed, to the whole of the union, or to such parish or parishes contained therein only as the said board shall direct.

Short title.

V. This Act may be cited as "The Poor Law Loans Act, 1872."

REFORMATORY AND INDUSTRIAL SCHOOLS ACTS AMENDMENT ACT, 1872.

35 & 36 VICT. CHAP. 21.

An Act to amend the Law relating to Reformatory and Industrial Schools. [27th June, 1872.]

[Preamble recited the Reformatory Schools Act, 1866 (29 & 30 Vict. c. 117), s. 28, and the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), s. 12.]

Short title.

[I.] This Act may be cited as "The Reformatory and Industrial Schools Acts Amendment Act, 1872."

Extent.

II. This Act shall not extend to Scotland or Ireland.

PART I.

[Sects. 3, 4, 5 refer only to reformatory schools.]

PART II.

Industrial Schools.

Construction. 29 & 30 Vict. c. 118.

VI. This part of this Act shall be construed as one with the Industrial Schools Act, 1866, and that Act and this part of this Act may be cited together as "The Industrial Schools Acts, 1866 and 1872."

Sect. 7.

Extension of power of prison authority under 29 & 30 Vict. c. 118, s. 12.

VII. [*Recital of* 29 *&* 30 *Vict. c.* 118, *c.* 12.] The said section shall extend to authorize the prison authority themselves to undertake anything towards which they are authorized by that section to contribute; and the Industrial Schools Act, 1866, shall be construed as if in the said section, so far as it relates to England, the expressions "contribute towards" and "contribution" included respectively "undertake" and "undertaking;" and the expenses of a prison authority in England incurred in pursuance of this section shall be defrayed accordingly.

Application and amendment of 33 & 34 Vict. c. 75, s. 27.

VIII. [*Recital of* 33 *&* 34 *Vict. c.* 75, *s.* 27.] The said enactment shall extend to all powers conferred on a prison authority by this part of this Act, and the date at which the power of a prison authority of a borough, who have during not less than six months before the election of a school board in such borough contributed to or maintained any industrial school, ceases in pursuance of the said enactment, shall be and be deemed always to have been the date at which the school board in the borough resolve, in the manner and with the approval (if any) provided by section twelve of the Industrial Schools Act, 1866, to contribute, in pursuance of that section, to the industrial school to which the prison authority have so contributed, or, as the case may be, resolve, under the provisions of and with the consent required by the Elementary Education Act, 1870, to maintain such industrial school; provided that any such industrial school which was so maintained by the prison authority may, notwithstanding any such resolution, continue to be maintained by the prison authority, unless they agree to transfer such school to the school board.

29 & 30 Vict. c. 118.

33 & 34 Vict. c. 75.

Power to contribute towards ultimate disposal of inmates of certified industrial schools. 29 & 30 Vict. c. 118.

IX. A prison authority in England may contribute towards the ultimate disposal of any inmate of a certified industrial school established by such authority in pursuance of this part of this Act, and the expenses incurred by a prison authority in England in pursuance of this section shall be deemed to be expenses incurred by such authority in carrying into effect the provisions of the Industrial Schools Act, 1866.

Sect. 8.

Note.

The provisions as to the consent required by the Elementary Education Act, 1870, for a school board to maintain an industrial school are contained in sect. 28 of that Act.

BALLOT ACT, 1872.

35 & 36 VICT. CHAP. 33.

An Act to amend the Law relating to Procedure at Parliamentary and Municipal Elections. [18th July, 1872.]

[By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 48 (3), it is enacted :—

"At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

"section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes."

General Orders containing rules and adaptations have been issued by the Local Government Board, and those now in force are styled, respectively, "Guardians (Outside London) Election Order, 1898," dated January 1st, 1898, and applicable to the election of guardians in urban districts outside London ; "Guardians (London) Election Order, 1898," dated January 21st, 1898, and applicable to the election of guardians in London ; and "Rural District Councillors Election Order, 1898," dated January 1st, 1898, and applicable to the election of district councillors who will be the guardians in rural districts for the parishes or areas for which they are elected district councillors. All these orders contain the following provision :—

"The provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the third schedule to this order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election of guardians in like manner as in the case of a municipal election."

To which, the following proviso is added in the "Rural District Councillors Election Order, 1898" :—

"Provided as follows—

"(*a.*) Such application shall be subject to the provisions of this order.

"(*b.*) If an election of rural district councillors and of any parish councillors is held in the parish at the same date, one ballot box may, if the returning officer thinks fit, be used for the two elections ; but, if separate ballot boxes are used for the two elections respectively, no vote for any rural district councillor shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for parish councillors.

"(*c.*) The ballot papers used at the election of rural district councillors for the parish shall be of a different colour from that of any ballot papers used in the election of parish councillors held in the parish at the same date."

And the following proviso in the "Guardians (Outside London) Election Order, 1898":—

"Provided as follows—

"(*a.*) Such application shall be subject to the provisions of this order.

"(*b.*) If polls are taken together in the parish as to an election of guardians and urban district councillors, one ballot box may, if the returning officer thinks fit, be used for the two elections; but if separate ballot boxes are used for the two elections respectively, no vote for any guardian shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for urban district councillors.

"(*c.*) The ballot papers used at the election of guardians shall be of a different colour from that of any ballot papers used in the election of any urban district councillors in the parish when the polls for the two elections are taken together."

Such sections of the Ballot Act as are applicable to elections of guardians under these orders are printed here. And the adaptations of such sections by the above-mentioned General Orders are printed in *smaller* type.]

Procedure at Elections.

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Poll at elections.

II. In the case of a poll at an election the votes shall be given by ballot. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said

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A presiding officer, or his clerk, as the case may be, is liable to an action for omitting to place the official mark upon voting papers at the suit of the candidate who thereby loses the election (*Pickering* v. *James*, L. R. 8 C. P. 489; 42 L. J. C. P. 217).

A ballot paper which conforms in other respects to the requirements of this Act, is not void because it has not the official mark on the face of it (*Ackers* v. *Howard*, 16 Q. B. D. 739; 55 L. J. Q. B. 273).

number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given, and return their names to the Clerk of the Crown in Chancery. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

Where an equality of votes is found to exist between any candidates at an election for a county or borough, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, if a registered elector of such county or borough, may give such additional vote, but shall not in any other case be entitled to vote at an election for which he is returning officer.

Poll at Elections.

[*Adaptation.*]—2. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

If in the register of parochial electors for a parish, the same number is placed opposite to the name of more than one parochial elector, the returning officer shall put a distinguishing mark on each part of the register which contains numbers used in other parts of the register, and when the number of any voter on any part of the register is entered on the counterfoil of a ballot paper, the mark on that part shall also be entered thereon.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in

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attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

Offences at Elections.

Offences in respect of nomination papers, ballot papers, and ballot boxes.

III. Every person who—

(1) Forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged ; or

(2) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper ; or

(3) Without due authority supplies any ballot paper to any person ; or

(4) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in ; or

(5) Fraudulently takes out of the polling station any ballot paper ; or

(6) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election ;

shall be guilty of a misdemeanour, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Offences in respect of Ballot Papers and Ballot Boxes.

[*Adaptation.*]—3. Every person who—

(1) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper ; or

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Note.

This section is also applied to school board elections by order of the Education Department of May 1st, 1895.

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(2) Without due authority supplies any ballot paper to any person; or

(3) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or

(4) Fraudulently takes out of the polling station any ballot paper; or

(5) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election;

shall be guilty of a misdemeanour, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Infringement of secrecy.

IV. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back

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Sect. 4. Note.

Where a personation agent attended at the polling booth with a copy of the burgess roll, and placed a mark against the name of each voter who obtained a ballot paper, and then before the close of the poll left his copy of the burgess roll in the committee room of the candidate by whom he was employed, but there was no proof that it was seen by anybody while in the room: *Held* that that there was not sufficient evidence to warrant a conviction under this section, as there was no proof that the information as to the voters was actually communicated to any person, and it was not enough that the means of acquiring such information were afforded to any one (*Stannanought* v. *Hazeldine*, 4 C. P. D. 191; 48 L. J. M. C. 89).

This section is also applied to school board elections by order of the Education Department of May 1st, 1895.

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of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

Infringement of Secrecy.

[*Adaptation.*]—**4.** Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of parochial electors of any elector who has or has not applied for a ballot paper or voted at that station or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, agent, and person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

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Use of school and public room for poll.

VI. The returning officer at a Parliamentary election may use, free of charge, for the purpose of taking the poll at such election, any room in a school receiving a grant out of monies provided by Parliament, and any room the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expense

incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll as aforesaid. Sect. 6.

The use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated or to pay any rate for such house.

Use of School and Public Room for Poll.

[*Adaptation.*] 6. The returning officer at an election of guardians may use, free of charge, for the purpose of taking the poll or for counting the votes at such election, any room in a school receiving a grant out of monies provided by Parliament, and any room the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll or for counting the votes as aforesaid.

The use of any room in an unoccupied house for taking the poll shall not render any person liable to be rated or to pay any rate for such house.

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Duties of Returning and Election Officers.

General powers and duties of returning officer.

VIII. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of voters, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting an election in manner provided by this Act.

All expenses properly incurred by any returning officer in carrying into effect the provisions of this Act, in the case of any Parliamentary election, shall be payable in the same manner as expenses incurred in the erection of polling booths at such election are by law payable.

Where the sheriff is returning officer for more than one county as defined for the purposes of Parliamentary elections, he may, without prejudice to any other power, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to an election in any such county, and may, by himself or such deputy, exercise any powers and do any things which the returning officer is authorized or required to exercise or do in relation to such election. Every such deputy, and also any under-sheriff, shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer in the provisions of this Act relating to Parliamentary elections, and the enactments with which this part of this Act is to be construed as one.

General Powers and Duties of Returning Officer.

[*Adaptation.*]—8. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling

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stations, ballot boxes, ballot papers, stamping instruments, copies of register of parochial electors, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting the election.

Every deputy returning officer shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer.

Keeping of order in station.

IX. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorized in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station, from having an opportunity of voting at such station.

Keeping of Order in Station.

[*Adaptation.*]—**9.** If any person misconducts himself in the polling station or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorized in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

Powers of presiding officer and administration of oaths, &c.

X. For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, a presiding officer shall have the power by law belonging to a deputy returning officer; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath

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Note.

A candidate at an election has a general right to be present in a polling station at the election, and not merely a qualified right to be present for the purpose of undertaking the duties of an agent, or of assisting his agent (*Clementson* v. *Mason*, L. R. 10 C. P. 209; 44 L. J. C. P. 171).

authorized by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorized by this Act to be taken before him. Sect. 10.

Powers of Presiding Officer and Administration of Oaths, &c.

[*Adaptation.*]—**10.** For the purpose of the adjournment of the poll, a presiding officer shall have the power by law belonging to a deputy returning officer in a Parliamentary election; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorized by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorized by this Act to be taken before him.

Liability of officers for misconduct.

XI. Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds.

30 & 31 Vict. c. 102.

Section fifty of the Representation of the People Act, 1867 (which relates to the acting of any returning officer, or his partner or clerk, as agent for a candidate), shall apply to any returning officer or officer appointed by him in pursuance of this Act, and to his partner or clerk.

Liability of Officers for Misconduct.

[*Adaptation.*]—**11.** Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds.

No returning officer or officer appointed by him in connection with the election of guardians for any parish, nor any partner or clerk of any such officer, shall act as agent for any candidate in the management or conduct of his election as a guardian. If any returning officer or officer appointed by him, or the partner or clerk of any such officer, shall so act he shall be guilty of a misdemeanour.

Miscellaneous.

Prohibition of disclosure of vote.

XII. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

Prohibition of Disclosure of Vote.

[*Adaptation.*]—**12.** No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

Sect. 11. Note.

This section is also applied to school board elections by order of the Education Department of May 1st, 1895.

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Non-compliance with rules.

XIII. No election shall be declared invalid by reason of a non-compliance with the rules contained in the first schedule to this Act, or any mistake in the use of the forms in the second schedule to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act, and that such non-compliance or mistake did not affect the result of the election.

Non-compliance with Rules.

[*Adaptation.*]—**13.** No election shall be declared invalid by reason of a defect in the title or appointment of the returning officer or deputy returning officer, or of a non-compliance with the rules contained in the first schedule to this Act or in the Guardians (London) [*or* Guardians (Outside London) *or* Rural District Councillors] Election Order, 1898, or any mistake in the use of the forms in the second schedule to this Act or in the said order, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act and of the Local Government Act, 1894, and that such non-compliance or mistake did not affect the result of the election.

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Personation.

Definition and punishment of personation.

XXIV. The following enactments shall be made with respect to personation at Parliamentary and municipal elections:

A person shall for all purposes of the laws relating to Parliamentary and municipal elections be deemed to be guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot paper in his own name.

. . . It shall be the duty of the returning officer to institute

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Sect. 13. Note.

The "result" of the election means the return of the candidate, not the amount of the majority (*Woodward* v. *Sarsons*, L. R. 10 C. P. 733; 44 L. J. C. P. 293; 32 L. T. (N. S.) 867), which case also decides that in order to avoid an election the irregularities must be so great as to amount to a conducting of the election in a manner contrary to the principles of the ballot. Where no poll was taken at the polling stations on account of the returning officer not having provided enough ballot boxes, the election was declared void (*Hackney Case*, 2 O'M. & H. 77).

Sect. 24. Note.

It was held under the repealed sect. 3 of the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), that a man could not be convicted of personating "a person entitled to vote" at an election of guardians if the person personated were dead at the time (*Whiteley* v. *Chappell*, L. R. 4 Q. B. 147).

This section is also applied to school board elections by order of the Education Department of May 1st, 1895.

a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony. Sect. 24.

The provisions of the Registration Acts, specified in the third schedule to this Act, shall in England and Ireland respectively apply to personation under this Act in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Acts. . . .

Definition and Punishment of Personation.

[*Adaptation.*]—**24.** The following enactments shall be made with respect to personation at an election of guardians :

It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

Sections 86 to 89, both inclusive, of the Parliamentary Voters Registration Act, 1843, shall apply to personation at an election of guardians in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Act, but with the substitution of the words "any parochial elector or any agent appointed under the Guardians [*or* Guardians (Outside London) *or* Rural District Councillors] Election Order, 1898," for "any such agent so appointed as aforesaid" or for any reference to any such agent, and of "the presiding officer" for "the returning officer or his respective deputy." 6 Vict. c. 18.

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Miscellaneous.

XXVIII. The schedules to this Act, and the notes thereto, and directions therein, shall be construed and have effect as part of this Act. Effect of schedules.

[*Adaptation.*]—**28.** The schedules to this Act, and the notes thereto, and directions therein, shall be construed and have effect as part of this Act.

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Schedules.

SCHEDULES.

FIRST SCHEDULE.

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The Poll.

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15. At every polling place the returning officer shall provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient, provided that in a district borough there shall be at least one polling station at each contributory place of such borough.

[*Adaptation.*]—15. At every polling place the returning officer shall, subject to the provisions of the Guardians Election Order, 1898 [*or* "Guardians (Outside London) Election Order, 1898," *or* "Rural District Councillors Election Order, 1898," as the case may be], provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling places, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient.

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17. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

[*Adaptation.*]—17. A separate room or separate booth may contain a separate polling station or several polling stations may be constructed in the same room or booth.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

[*Adaptation.*]—18. No person shall be admitted to vote at any polling station except the one allotted to him.

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20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same county or borough.

[*Adaptation.*]—20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret.

Schedules.

21. The returning officer shall appoint a presiding officer to preside at each station, and the officer so appointed shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

[*Adaptation.*]—21. The presiding officer appointed to preside at each station shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names: it shall be in the form set forth in the second schedule to this Act or as near thereto as circumstances admit, and shall be capable of being folded up.

[*Adaptation.*]—22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names: it shall be in the form set forth in the second schedule to this Act or as near thereto as circumstances admit, and shall be capable of being folded up.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

[*Adaptation.*]—23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark,

Clause. 24.

Note.

The presiding officer, or his clerk as the case may be, is liable to an action for omitting to place the official mark upon a paper, without any allegation of malice or want of reasonable care on his part (*Pickering* v. *James*, L. R. 8 C. P. 489; 42 L. J. C. P. 217).

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either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

[*Adaptation.*]—24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector, together with the distinguishing mark, if any, of the part of the register in which the number occurs shall, as required by section 2 of this Act as adapted, be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

[*Adaptation.*]—25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as herein-after mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the

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time of polling, before the presiding officer, who shall attest it in the form herein-after mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

[*Adaptation.*]—26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as herein-after mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form herein-after mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions and taking the oath permitted by law to be asked of and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter; but the ballot paper (in this Act called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and instead of being put into the ballot box, shall be given to the presiding officer and indorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called the tendered votes list.

[*Adaptation.*]—27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions permitted by the Guardians (London) [*or* Guardians (Outside London) *or* Rural District Councillors] Election Order, 1898, to be asked of voters at the time of polling, and upon taking an oath in the form herein-after set out, which the presiding officer shall administer, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called "a tendered ballot paper") shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and indorsed by him with the name of the voter and his number in the

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register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called "the tendered votes list."

The oath shall be administered in the following form:—

"You do swear that you are the same person whose name appears as *A. B.* on the Register of Parochial Electors for the Parish of [*or* Ward of the Parish of], and that you have not already voted at the present election of Guardians [*or* Rural District Councillors] in this or any other Parish or Ward in the Union.

"So HELP YOU GOD."

Provided that any person entitled to affirm in lieu of taking an oath may affirm in the following form:—

"I, *A. B.*, do solemnly, sincerely, and truly declare and affirm that I am the same person whose name appears as *A. B.* on the Register of Parochial Electors for the Parish of [*or* Ward of the Parish of], and that I have not already voted at the present Election of Guardians [*or* Rural District Councillors] in this or any other Parish or Ward in the Union."

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt paper shall be immediately cancelled.

[*Adaptation.*]—28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals,—

(1) Each ballot box in use at his station, unopened but with the key attached; and

(2) The unused and spoilt ballot papers, placed together; and

(3) The tendered ballot papers; and

(4) The marked copies of the register of voters, and the counterfoils of the ballot papers; and

(5) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read;

and shall deliver such packets to the returning officer.

[*Adaptation.*]—29. The presiding officer of each station, as soon as practicable after the close of the poll, shall make up into separate packets sealed with his seal,—

(1) Each ballot box in use at his station, unopened but with the key attached; and

(2) The unused and spoilt ballot papers, placed together; and

(3) The tendered ballot papers; and

(4) The marked copies of the register of parochial electors, and the counterfoils of the ballot papers; and

(5) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read;

and shall deliver such packets to the returning officer, or deputy returning officer by whom the votes are to be counted, unless he is himself such officer.

30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

[*Adaptation.*]—30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

Counting Votes.

31. The candidates may respectively appoint agents to attend the counting of the votes.

Counting Votes.

[*Adaptation.*]—31. Each candidate may appoint an agent to attend the counting of the votes.

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to

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attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

[*Adaptation.*]—32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

33. The returning officer, his assistants and clerks, and the agents of candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

[*Adaptation.*]—33. The returning officer, his assistants and clerks, the agents of the candidates, any person to whom rule 51 of this schedule applies, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

34. Before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and, taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the back of such papers.

[*Adaptation for London Guardians' Elections.*]—34. Before the returning officer proceeds to count the votes, he shall in the presence of the agents of the candidates, open each ballot box, and taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes.

The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

[*Adaptation for Outside London Guardians' Elections, and Rural District Councillors' Elections.*]—34. If a poll has been taken as to the election of guardians [*or* rural district councillors] only, before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. If polls have been taken at the same date for the election both of guardians and of urban district councillors [*or* rural district councillors and of parish councillors], before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open one of the ballot boxes, and taking out the papers therein shall separate those relating to the election of guardians [*or* rural district councillors]

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from any relating to the election of urban district councillors [*or* parish councillors], and shall count and record the number of ballot papers relating to each election. He shall then secure the ballot papers relating to each election by placing them in separate packets under his own seal, and the seals of such of the agents of the candidates as desire to affix their seals, and shall proceed in like manner with any other ballot boxes and papers therein. When all the ballot boxes and the papers therein have been so dealt with, he shall open all the packets of ballot papers relating to one election, and shall mix all such papers together, and shall proceed to count the votes, keeping the papers relating to any other election sealed up until he has completed such counting. He shall afterwards deal in manner aforesaid with the packets and papers relating to the other election or elections.

The returning officer, while counting and recording the number of ballot papers, and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding (except so far as he and the agents otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

[*Adaptation.*]—35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding, if and so far as he thinks it necessary, the hours between the close of the poll and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

36. The returning officer shall indorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the indorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall report to the Clerk of the Crown in Chancery the number of ballot papers rejected and not counted by him under the several heads of—

1. Want of official mark;

2. Voting for more candidates than entitled to;

Clause 36. Note.

The indorsements by the returning officer must be on the back of the ballot paper (*Ackers* v. *Howard*, 16 Q. B. D. 751; 55 L. J. Q. B. 273).

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3. Writing or mark by which voter could be identified ;

4. Unmarked or void for uncertainty ;

and shall on request allow any agents of the candidates, before such report is sent, to copy it.

[*Adaptation.*]—36. The returning officer shall indorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the indorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall draw up a statement showing the number of ballot papers rejected and not counted by him under the several heads of—

1. Want of official mark ;
2. Voting for more candidates than entitled to ;
3. Writing or mark by which voter could be identified ;
4. Unmarked or void for uncertainty ;

and shall on request allow any agents of the candidates to copy such statement. If the votes are counted by a deputy returning officer he shall, with the declaration of the result of the poll, report to the returning officer the number of ballot papers rejected and not counted by him, under the above heads and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it.

37. Upon the completion of the counting the returning officer shall seal up in separate packets the counted and the rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall report to the Clerk of the Crown in Chancery the result of such verification, and shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

[*Adaptation.*]—37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall draw up a statement as to the result of such verification, and shall, on request, allow any agents of the candidates to copy it.

If the votes are counted by a deputy returning officer, he shall report to the returning officer the result of the verification, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any

agents of the candidates, before such report is sent in, to copy it. He shall with his report send to the returning officer the sealed packets of counted and rejected ballot papers, and the unopened sealed packets which he has received from any presiding officer.

38. Lastly, the returning officer shall forward to the Clerk of the Crown in Chancery (in manner in which the poll books are by any existing enactment required to be forwarded to such clerk, or as near thereto as circumstances admit) all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, sent by each presiding officer, indorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the county or borough for which such election was held; and the term poll book in any such enactment shall be construed to include any document forwarded in pursuance of this rule.

[*Adaptation.*]—38. Lastly, the returning officer shall carefully preserve for the period herein-after mentioned all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, indorsing on each packet a description of its contents and the date of the election to which they relate and the name of the parish for which such election was held.

39. The Clerk of the Crown shall retain for a year all documents relating to an election forwarded to him in pursuance of this Act by a returning officer, and then, unless otherwise directed by an order of the House of Commons, or of one of Her Majesty's Superior Courts, shall cause them to be destroyed.

[*Adaptation.*]—39. The returning officer shall retain for six months all documents relating to an election of guardians, and then, unless otherwise directed by an order of the county court having jurisdiction in the parish or in any part thereof, or of any tribunal in which the election is questioned, shall cause them to be destroyed.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the Clerk of the Crown in Chancery, except under the order of the House of Commons or under the order of one of Her Majesty's Superior Courts, to be granted by such court on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the House or

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court making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery. Any power given to a court by this rule may be exercised by any judge of such court at chambers.

[*Adaptation.*]—40. No person shall be allowed to inspect any rejected ballot papers in the custody of the returning officer, except under the order of the county court or tribunal aforesaid, to be granted by such court or tribunal on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the court or tribunal making the same may think expedient, and shall be obeyed by the returning officer.

41. No person shall, except by order of the House of Commons or any tribunal having cognizance of petitions complaining of undue returns or undue elections, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the Clerk of the Crown in Chancery; such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the House or tribunal making the order may think expedient; provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

[*Adaptation.*]—41. No person shall, except by order of the county court having jurisdiction in the parish or any part thereof, or of any tribunal having cognizance of any question relating to the election, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the returning officer. Such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the court or tribunal making the order may think expedient: Provided that on making and carrying into effect any such order care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

42. All documents forwarded by a returning officer in pursuance of this Act to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery, with the consent of the Speaker of the House of Commons, and the Clerk of the Crown shall supply copies of or extracts from the said documents to any person demanding the same, on payment

of such fees and subject to such regulations as may be sanctioned by the Treasury.

[*Adaptation.*]—42. All documents in the custody of a returning officer, in pursuance of this Act, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may have been or may hereafter be prescribed by the council of the county or county borough in which the parish is situate, and the returning officer shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may have been or may hereafter be prescribed by the county council.

43. Where an order is made for the production by the Clerk of the Crown in Chancery of any document in his possession relating to any specified election, the production by such clerk or his agent of the document ordered, in such manner as may be directed by such order, or by a rule of the court having power to make such order, shall be conclusive evidence that such document relates to the specified election; and any indorsement appearing on any packet of ballot papers produced by such Clerk of the Crown or his agent shall be evidence of such papers being what they are stated to be by the indorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *primâ facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

[*Adaptation.*]—43. Where an order is made for the production by the returning officer of any document in his possession relating to any specified election of guardians the production by such officer or his agent of the document ordered, in such manner as may be directed by such order, or by an order of the court having power to make such first-mentioned order, shall be conclusive evidence that such document relates to the specified election; and any indorsement appearing on any packet of ballot papers produced by such returning officer or his agent shall be evidence of such papers being what they are stated to be by the indorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *primâ facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

[*Adaptation.*]—43 (*a.*) There shall be an appeal from any order of the county court under these rules in like manner as in other cases in such court.

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General Provisions.

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47. The returning officer may, if he think fit, preside at any polling station, and the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

[*Adaptation.*]—47. If the returning officer presides at any polling station, the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. In the case of a contested election for any county or borough, the returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

[*Adaptation.*]—48. The returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purpose of an election who has been employed by any other person in or about the election.

[*Adaptation.*]—49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorized to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

[*Adaptation.*]—50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorized to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

51. A candidate may himself undertake the duties which any agent of his if appointed might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may, in pursuance of this Act, attend.

[*Adaptation.*]—51. A candidate may himself undertake the duties which any agent of his, if appointed under rule 31 of this schedule, might have undertaken, and may, if he does not appoint such an agent, be present at the counting of the votes, or may himself take the place of such agent. Provided that any person acting under this rule may at any time, before so acting, make the statutory declaration as to secrecy required by rule 54 of this schedule, but he shall not so act until he has made such declaration.

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52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

[*Adaptation.*]—52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

53. If any person appointed an agent by a candidate for the purpose of attending at the polling station or at the counting of the votes dies, or becomes incapable of acting during the time of the election, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent so appointed.

[*Adaptation.*]—53. If any person appointed an agent for the purposes of attending a polling station or at the counting of the votes dies, or becomes incapable of acting during the time of the election, another agent may be appointed in his place, and notice shall forthwith be given to the returning officer in writing of the name and address of any agent so appointed.

54. Every returning officer, and every officer, clerk, or agent authorized to attend at a polling station, or at the counting of the votes shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration, or take any oath on the occasion of any election.

[*Adaptation.*]—54. Every returning officer, and every officer, clerk, or agent authorized to attend at a polling station, and also every officer, clerk, or agent authorized to attend at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

55. Where in this Act any expressions are used requiring or

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authorizing or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

[*Adaptation.*]—55. Where in this Act any expressions are used requiring or authorizing or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

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SECOND SCHEDULE.

* * * * *

[The adapted forms are alone printed here.]

Note.—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

Form of Ballot Paper.

Form of Front of Ballot Paper.

Counterfoil No. .

NOTE:—
The counterfoil is to have a number to correspond with that on the back of the Ballot Paper.

ELECTION OF GUARDIANS [*or* RURAL DISTRICT COUNCILLORS].

1	ADAMS (Walter Adams, of Green Farm, Farmer.)
2	HIGGINS (William Henry Higgins, of Mudford, Agricultural Labourer.)
3	MERTON (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Wilts, Gentleman.)
4	PRITCHARD (Jane Pritchard, of Rose Villa, Married Woman.)

Form of Back of Ballot Paper.

No.

Election of Guardians [*or* Rural District Councillors] for Parish [*or* United Parishes, *or* Ward of Parish] , 18 .

Note.—The number on the ballot paper is to correspond with that in the counterfoil.

Directions as to printing Ballot Paper.

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, and the names, places of abode, and descriptions, and the number on the back of the paper, shall be printed in small characters.

Form of Directions for the Guidance of the Voter in voting, which shall be printed in conspicuous characters, and placarded outside every polling station and in every compartment of every polling station.

The voter may vote for candidates as guardians [*or* rural district councillors].

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than candidates, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanour, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Note.—These directions shall be illustrated by examples of the ballot paper.

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare, that I will not at this election of guardians [*or* rural district councillors] for the Parish of [*or* United Parishes of , *or* Ward of the Parish of] do anything forbidden by section four of the Ballot Act, 1872, which has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration. One declaration may be made by the Returning Officer in respect of all the Parishes for which he is Returning Officer.

Form of Declaration of inability to read.

I, *A. B.*, of , being numbered on the Register of Parochial Electors for the Parish of , do hereby declare that I am unable to read.

A. B., his mark,

day of , 18 .

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I, the undersigned, being the presiding officer for the polling station for the Parish of [*or* United Parishes of *or* Ward of the Parish of], do hereby certify that the above declaration, having been first read to the above-named *A. B.*, was signed by him in my presence with his mark.

Signed, *C. D.*,

Presiding officer for polling station for the Parish of [*or* United Parishes of , *or* Ward of the Parish of .]

day of , 18 .

THIRD SCHEDULE.

Provisions of Registration Acts referred to in Part III. of the foregoing Act (*s.* 24).

Session and Chapter.	Title.	Part applied.
	As to England.	
6 & 7 Vict. c. 18 .	The Parliamentary Voters Registration Act, 1843.	Sections eighty-five to eighty-nine both inclusive.

* * * * *

BASTARDY LAWS AMENDMENT ACT, 1872.

35 & 36 VICT. CHAP. 65.

An Act to amend the Bastardy Laws.

[10th August, 1872.]

[Preamble recited 7 & 8 Vict. c. 101.]

[The general law of Bastardy does not fall within the compass of this work. The numerous cases decided under sects. 3, 4, 5 of this statute, which have no relation to the Poor Law, are therefore not noted here, and reference should be made for such cases to Lushington's "Law of Affiliation and Bastardy."]

Short title.

[I.] This Act may be cited as "The Bastardy Laws Amendment Act, 1872."

[Sect. 2. *Repeal of enactments:* Repealed by the S. L. R. Act, 1883.]

Putative father to be summoned to petty sessions on application of mother of bastard child.

III. Any single woman who may be with child or who may be delivered of a bastard child may either before the birth or at any time within twelve months from the birth of such child, or at any time thereafter, upon proof that the man alleged to be the father of such child has within the twelve months next after the birth of such child paid money for its maintenance, or at

any time within the twelve months next after the return to England of the man alleged to be the father of such child, upon proof that he ceased to reside in England within the twelve months next after the birth of such child, make application to any one justice of the peace acting for the petty sessional division of the county, or for the city, borough, or place in which she may reside, for a summons to be served on the man alleged by her to be the father of the child, and if such application be made before the birth of the child the woman shall make a deposition upon oath stating who is the father of such child, and such justice of the peace shall thereupon issue his summons to the person alleged to be the father of such child to appear at a petty session to be holden after the expiration of six days at least for the petty sessional division, city, borough, or other place in which such justice usually acts.

Justices in petty session may make an order on the putative father for maintenance, education, &c. of bastard child, and enforce the same by distress and commitment.

IV. After the birth of such bastard child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person, or left at his last place of abode, six days at least before the petty session, the justices in such petty session shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the said justices, they may adjudge the man to be the putative father of such bastard child; and they may also, if they see fit, having regard to all the circumstances of the case, proceed to make an order on the putative father for the payment to the mother of the bastard child, or to any person who may be appointed to have the custody of such child, under the provisions of the said recited Act, of a sum of money weekly, not exceeding five shillings a week, for the maintenance and education of the child, and of the expenses incidental to the birth of such child, and of the funeral expenses of the child, provided it has died before the making of such order, and of such costs as may have been incurred in the obtaining of such order; and if the application be made before the birth of the child, or within two calendar months after the birth of the child, such weekly sum may, if the said justices think fit, be calculated from the birth of the child; and if at any time after the expiration of one calendar month from the making of such order as aforesaid it be made to appear to any one justice, upon oath or affirmation, that any sum to be paid in pursuance of such order has not been paid, such justice may, by warrant under his hand and seal, cause such putative father to be brought before any two justices, and in case such putative father neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, apprehension, and bringing up of such putative father, such

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two justices may, by warrant under their hands and seals, direct the sum so appearing to be due, together with such costs, to be recovered by distress and sale of the goods and chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless he give sufficient security, by way of recognizance or otherwise, to the satisfaction of such justices, for his appearance before two justices on the day which may be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security; but if upon the return of such warrant, or if by the admission of such putative father, it appear that no sufficient distress can be had, then any such two justices may, if they see fit, by warrant under their hands and seals, cause such putative father to be committed to the common gaol or house of correction of the county, city, borough, or place where they have jurisdiction, there to remain, without bail or mainprize, for any term not exceeding three calendar months, unless such sum and costs, and all reasonable charges attending the said distress, together with the costs and charges attending the commitment and conveying to gaol or to the house of correction, and of the persons employed to convey him thither, be sooner paid and satisfied.

Time of cessation of order.

V. No order for the maintenance and education or for contribution towards the relief of any such child made in pursuance of this Act shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of thirteen years, or after the death of such child; provided that the justices may in the order direct that the payments to be made under it in respect of the child shall continue until the child attains the age of sixteen years, in which case such order shall be in force until that period.

[Sect. 6. *Proof of service of summons in certain cases:* This section and the 2nd schedule to which it referred are repealed by the Bastardy Laws Amendment Act, 1873 (36 & 37 Vict. c. 9), s. 2, and replaced by sect. 4 and the schedule of that Act.]

Payments for bastard children.

VII. When and so often as any bastard child for whose maintenance an order has been made by justices on the application of the mother shall become chargeable to any parish or union, any two justices having jurisdiction in the parish or union in petty sessions may, if they shall see fit, by order under their

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Note.

This section is in substitution of sect. 41 of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), which is repealed by sect. 2 and the 1st schedule of this Act.

If no order has been made upon the application of the mother, the guardians may obtain an order under the Bastardy Laws Amendment Act, 1873 (36 & 37 Vict. c. 9), s. 5.

hands and seals, from time to time appoint some relieving or other officer of the parish or union to which such bastard child shall be so chargeable to receive on account of such parish or union such proportion of the payments then due or becoming due under the said order as may accrue during the period for which such child is chargeable, and such appointment shall remain in force for the period of one whole year whenever the bastard child shall be or have become chargeable as aforesaid, and may afterwards from time to time be renewed by indorsement under the hand of any one justice for the like period; and any payment so ordered to be made shall be recoverable by the relieving officer or other officer appointed to receive it in the manner provided for the recovery of payments under an order obtained by the mother. Sect. 7.

[Sect. 8. *Guardians may recover costs of relief of bastard child in certain cases:* Repealed by the Bastardy Law Amendment Act, 1873 (36 & 37 Vict. c. 9), s. 2, and replaced by sect. 5 of that Act.]

IX. The court of quarter sessions, on appeal to them against any order made pursuant to the provisions of this Act, may, if they think fit, reduce the amount directed to be paid for the maintenance and education or on account of the relief of the child named in such order, and they shall thereupon alter the order accordingly. Appeals.

X. This Act shall be deemed to be incorporated with the said recited Act, and shall be construed as if the said recited Act (except such parts thereof as have been repealed or amended by this Act) and this Act were one Act. Construction.

XI. This Act shall not extend to Scotland or Ireland. Extent.

SCHEDULES REFERRED TO IN THE FOREGOING ACT.

[Schedule I. Repealed by the S. L. R. Act, 1883.]

[Schedule II. Repealed by the Bastardy Laws Amendment Act, 1873 (36 & 37 Vict. c. 9).]

MILITARY FORCES LOCALIZATION ACT, 1872.

35 & 36 VICT. CHAP. 68.

An Act to make provision for defraying the Expenses of Building Barracks and otherwise providing for the Localization of the Military Forces. [10th August, 1872.]

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XI. All lands acquired by the said Secretary of State in pursuance of this Act, which were at the time of such acquisition subject to land tax, to poor or other rates, shall continue liable thereto. Lands to continue subject to land tax and rates.

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As to proceedings on appeal, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 4. Sect. 9. Note.

The recited Act is the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101). Sect. 10. Note.

PARISH CONSTABLES ACT, 1872.

35 & 36 VICT. CHAP. 92.

An Act to render unnecessary the general Appointment of Parish Constables. [10th August, 1872.]

[Preamble recited that the establishment of an efficient police in the counties had rendered the general appointment of parish constables unnecessary.]

Parish constables not to be appointed.

[I.] No parish constable shall be appointed except as herein provided.

Provision for the appointment of parish constables when the quarter sessions deem it necessary.

II. Whenever the court of quarter sessions of any county shall by resolution determine that it is necessary, with a view to the preservation of the peace or the proper discharge of public business therein, that one or more parish constables should be appointed for any parish within the jurisdiction of such court, such constable or constables shall, until the said resolution shall have been rescinded, be and be continued to be appointed for such parish, according to the provisions of the law for the appointment of parish constables then in force.

Appointment of the constable to be served upon the person, and his attendance and swearing at the sessions dispensed with.

5 & 6 Vict. c. 109.

III. When the justices at the sessions held for this purpose shall have chosen the constable or constables for any parish they shall make out a warrant of appointment and cause it to be served upon each person so chosen, who shall be bound to act as a constable from the time when he shall be served with such warrant, unless he shall submit another person to the justices to be appointed as his substitute, and the justices shall make the appointment of the person so substituted for the time, and subject to the provisions contained in the Parish Constables Act, 1842, . . . and the lists provided for by section fourteen shall be sent within fourteen days from the appointment of the constables so made by the justices at the said sessions.

Paid constable may be appointed for a parish on application of the vestry.

IV. The vestry of any parish not included wholly or in part within a borough, after due notice, may at any time resolve that one or more parish constables shall be appointed for their parish, and in such resolution may fix the amount of salary to be paid to him or them, which salary shall be paid out of the poor rate of the said parish, and a copy of such resolution shall be delivered by one of the overseers or some other officer

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Sect. 2. Note. See the Parish Constables Acts, 1842 (5 & 6 Vict. c. 109) and 1850 (13 & 14 Vict. c. 20), for the provisions as to the appointment of parish constables.

Sect. 4. Note. In rural parishes the powers of the vestry herein are transferred to the parish council or parish meeting (Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 6, 19).

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of the parish to the justices of the petty sessional division in which the parish is situated, and such justices may appoint, by warrant under the hand and seal of two of them, some fit and competent person or persons willing to serve the office to be the constable or constables for the said parish, who shall hold his or their office until he or they shall resign or be dismissed for misconduct or incompetency by the justices of the said division, or the vestry shall determine to discontinue the appointment of a constable at the expiration of not less than six months from the day on which a copy of such resolution shall be delivered to the justices of the said division, and until the vestry shall come to such determination the justices shall renew the appointment upon the occurrence of any vacancy in the office.

Provided that if the vestry shall deem it right that the salary should be increased at any time when the office is not vacant, they may upon due notice pass a resolution to that effect, and a copy thereof shall be delivered by the overseer or other officer to the justices in petty sessions, and a copy thereof shall be indorsed on the warrant of appointment and be signed by two justices at such petty sessions.

Two or more parishes may be united for the appointment.

V. Two or more such parishes as aforesaid may unite for the appointment by the justices of a constable if the vestries thereof pass separate resolutions and agree upon the proportionate parts of the salary to be paid in respect of each parish; and in any such case the justices, or if the parishes be situated in two petty sessional divisions, the justices of each of such two petty sessional divisions may appoint the same person to be the constable for the parishes so united, to hold his office at one salary, payable where requisite out of the poor rate of the several parishes according to the proportions agreed upon, and shall certify the amount to be paid by each parish respectively by indorsement on the warrant of appointment.

Tenure of the office of existing paid constables.

VI. Every paid constable appointed for any parish previous to the passing of this Act may continue to hold his office in like manner as if this Act had not been passed.

Duties, powers, and immunities of parish constable.

VII. Every constable appointed under this Act shall be subject to the authority of the chief constable of the county, riding, or division in which the parish for which such constable may be appointed to act shall be situated, and all duties, powers, protections, immunities, liabilities, and incidents heretofore imposed upon or belonging to the office of a parish constable shall be imposed upon and belong to the constable to be so appointed and to the police constable who shall be called

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See note to sect. 4.

Sect. 5.

Note.

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Fees and allowances.

upon to act in any matter appertaining to that office by any competent authority; and all fees, charges, and allowances which would have been paid or granted by or under any statute or other legal provision to a parish constable, shall be paid or granted to the constable appointed under this Act or to such police constable, to be by them respectively applied in aid of the poor rate of the parish for which such constable shall have been appointed, or in the case of the police constable according to the rules prescribed for the regulation of the police force in such matter.

Charges not to be made for parish business.

VIII. No charge shall be made by nor any fee received by any paid constable appointed on the application of the vestry in respect of any service rendered by him to the parish or parishes for which he shall be appointed generally or to a parish officer of such parish or parishes in respect of matters belonging to the office of such officer.

Fees to constables may be allowed when costs awarded against defendant.

IX. Where in any proceedings taken by or on behalf of any parish officer who is paid a salary for his services in respect of any matter connected with the duty of his office the justices shall award costs to be paid by the defendant or the party complained against, they may, if they see fit, allow, in settling the amount of such costs, such fees and allowances in respect of the services of the constable as shall appear to them to be just, and shall be in accordance with the scale of fees and allowances then in force in that county; and such fees and allowances shall be received by such constable, and shall be paid by him to the overseers of the parish to be applied in aid of the poor rate.

Execution of process by constables appointed under this Act.

X. Every constable appointed under the authority of this Act shall have full power to execute any summons or warrant within any part of the county for which the justice issuing the same shall have jurisdiction, but shall not be compelled to serve any summons or to execute any warrant out of the parish or parishes for which he shall be appointed to act.

Fees and allowances to constables remain in force till altered.

XI. The fees and allowances to constables settled by the justices at their general or quarter sessions with the consent of one of Her Majesty's principal Secretaries of State shall continue to be in force until they shall be altered by the said justices with the like consent, which alteration shall take place from time to time as occasion may require.

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Note.

It would appear from the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (ix.), that the county council is now the proper authority to fix the fees and allowances payable to parish constables.

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How fees and allowances to be paid and payments enforced.

XII. Where any fee or allowance is claimed by any constable in respect of any service rendered to an overseer, surveyor of the highways, or other officer of the parish, the same, if lawfully due, may be paid to him by such overseer, surveyor, or other officer without any order of justices, but if payment be refused, or cannot be obtained by him on request, he may apply to the justices in petty sessions assembled for an order upon such overseer, surveyor, or other officer, and the said justices, after summoning such officer, may make an order upon him for the payment of such fee or allowance, and their order in this behalf shall be enforceable if not obeyed, in manner directed by the Summary Jurisdiction Act, 1848, as orders of justices for the payment of money; and if any overseer, surveyor, or other officer pay money in obedience to such order, the payment shall not be disallowed by any auditor or other authority competent to allow or disallow the accounts of such officer on any ground whatsoever.

11 & 12 Vict. c. 43.

[Sect. 13. *Repeal of statutes:* Repealed by the S. L. R. Act, 1883.]

Exemptions, and interpretation.

XIV. Nothing herein contained shall apply to special constables appointed under the statutes relating thereto, nor to any officer appointed at a court leet or torn for any purpose other than the preservation of the peace in any parish.

The term "county" shall extend to every riding or division of a county for which there is a separate court of quarter sessions.

The term "parish," among other meanings applicable to it, shall signify a place for which a separate poor rate is or can be made or for which a separate overseer is or can be appointed.

The term "constable" shall include every petty constable, headborough-borsholder, tithingman, or other peace officer of the like description authorized or required to be appointed for any parish at the date of this Act.

The term "vestry" shall include all meetings of the inhabitants of any township or other place for which a separate overseer is appointed, to be summoned in the like manner and with the like notice as the ordinary meetings of a vestry.

The word "overseers" shall include churchwardens so far as they are authorized by law to act as overseers.

Short title.

XV. This Act may be cited as "The Parish Constables Act, 1872."

PAWNBROKERS ACT, 1872.

35 & 36 VICT. CHAP. 93.

An Act for consolidating, with Amendments, the Acts relating to Pawnbrokers in Great Britain. [10th August, 1872.]

[The following sections of this Act are here included as affecting the duties of overseers.]

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Prohibition of taking in pawn linen, clothing, unfinished goods, &c. in certain cases.

XXXV. If a pawnbroker knowingly takes in pawn any linen or apparel or unfinished goods or materials intrusted to any person to wash, scour, iron, mend, manufacture, work up, finish, or make up, he shall be guilty of an offence against this Act, and shall be liable, on conviction thereof in a court of summary jurisdiction, to forfeit a sum not exceeding double the amount of the loan (which forfeiture shall be paid to the overseers of the poor of the parish where the offence is committed, for the use of the poor thereof); and the pawnbroker shall likewise restore the pledge to the owner thereof, in the presence of the court, or as the court directs.

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Notice of first application.

XLII. A person intending to apply for the first time for a certificate under this Act shall proceed as follows :—

(1) Twenty-one days at least before the application he shall give notice by registered letter sent by post of his intention to one of the overseers of the poor of the parish or place in which he intends to carry on business, and to the superintendent of police of the district, and shall in the notice set forth his name and address :

(2) Within twenty-eight days before the application he shall cause a like notice to be affixed and maintained between ten o'clock in the morning and five o'clock in the afternoon of two consecutive Sundays, on the principal door or one of the doors of the church or chapel of the parish or place, or if there is none, then on some other public and conspicuous place in the parish or place.

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BASTARDY LAWS AMENDMENT ACT, 1873.

36 & 37 VICT. CHAP. 9.

An Act to amend the Bastardy Laws. [24th April, 1873.]

[*Preamble recited the Bastardy Laws Amendment Act*, 1872 (35 & 36 *Vict. c.* 65) : Repealed by the S. L. R. Act (No. 2), 1893.]

[I.] This Act may be cited as "The Bastardy Laws Amendment Act, 1873." Short title.

[Sect. 2. *Repeal of sects.* 6, 8, *and Schedule* 2 *of* 35 & 36 *Vict. c.* 65 : Repealed by the S. L. R. Act, 1883.]

[Sect. 3. *Revival of rights under repealed enactments :* Repealed by the S. L. R. Act, 1893.]

IV. In cases where the putative father of any bastard child resides out of the petty sessional district where the mother applies for a summons or order of maintenance, it shall be lawful to prove by affidavit in the form referred to in the second schedule to this Act, or to the like effect, that such summons or order has been duly served. Any affidavit purporting to be so made and attested shall be received in evidence, and shall be deemed to be duly made and attested until the contrary be shown. Proof of service of summons in certain cases.

V. When a bastard child becomes chargeable to a union or parish, the guardians may apply to two justices having jurisdiction in the union or parish, in petty sessions, and thereupon such justices may summon the man alleged to be the father of Guardians may recover cost of relief of bastard child in certain cases.

This section is substituted for sect. 6 of 35 & 36 Vict. c. 65, repealed by sect. 2 of this Act. **Sect. 4.**

Note.

If the mother has already obtained an order and the bastard child becomes chargeable, the guardians must proceed under sect. 7 of the Bastardy Laws Amendment Act, 1872 (35 & 36 Vict. c. 65), and not under this section. **Sect. 5.**

Note.

Payment by a putative father to the guardians under an order obtained under this section is not such a payment as will give the justices jurisdiction to make an order under sect. 3 of the Bastardy Laws Amendment Act, 1872 (35 & 36 Vict. c. 65), upon the application of the mother more than twelve months after the birth of the child (*Billington* v. *Cyples*, 52 L. T. 854 ; 49 J. P. 582).

If the guardians apply for an order unsuccessfully, the mother is not thereby precluded from subsequently applying for an order on her own behalf (*Reg.* v. *Walker*, 14 L. J. M. C. 120).

As to recovery of payments, see 35 & 36 Vict. c. 65, s. 4. Costs may be awarded to and against the parties on an application by the

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the child to appear before any two justices having the like jurisdiction, to show cause why an order should not be made upon him to contribute towards the relief of the child, and upon his appearance, or on proof that the summons was duly served on him, or left at his last place of abode, six days at least before the petty sessions, the justices in such petty session shall hear the evidence of the mother, and such other evidence as she or the said guardians may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the said justices, they may adjudge the man to be the putative father of such bastard child, and they may proceed to make an order upon such putative father to pay to the guardians or one of their officers such sum, weekly or otherwise, towards the relief of the child during such time as the child shall continue or afterwards be chargeable, as shall appear to them to be proper; and any payment so ordered to be made shall be recoverable by the relieving officer, or other officer appointed to receive it, in the manner provided by the said recited Act for the recovery of payments under an order obtained by the mother: Provided as follows:

1. That no payments shall be recoverable under such order except in respect of the time during which the child is actually in receipt of relief;
2. That an order under this section shall not be made, and if made shall cease except for the recovery of arrears, when the mother of the child has obtained an order under the said recited Act or this Act;
3. That nothing in this section shall be deemed to relieve the mother of a bastard child from her liability to maintain such child;
4. That any person upon whom an order is made under this section shall have the same right of appeal against such order as in the case of an order obtained on the application of the mother;
5. That if after an order has been made under this section the mother should apply for an order under the said recited Act or this Act, the order made under this section shall be *primâ facie* evidence that the man upon whom the order is made is the father of the child.

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guardians under this section. (See the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 24.)

Note.

For the liability of the mother to maintain her bastard child, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 71.

An appeal to quarter sessions against an order made on the application of the mother is given by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 4.

Sect. 6.

Issue of new or altered forms of proceedings.

VI. The Local Government Board may issue such new or altered forms of proceedings in matters of bastardy as they shall deem necessary or expedient for giving effect to the provisions of the said recited Act and of this Act.

Adjournment of proceedings where two justices not present.

VII. If at the time appointed for the hearing of any case in and by any summons issued under the said recited Act or this Act two justices having jurisdiction to hear the same shall not be present, it shall be lawful for any one justice then present to adjourn the hearing to a certain time and place to be then appointed in the presence of the party or parties or their respective counsel, attorneys, or agents then present; and in the meantime the said justice may suffer the defendant to go at large upon his entering into a recognizance with or without surety or sureties, at the discretion of the said justice, conditioned for his appearance at the time and place to which such hearing shall be adjourned.

[Sect. 8. *Orders made by justices before passing of this Act valid:* Repealed by the S. L. R. Act, 1883.]

This and recited Act to be construed as one Act.

IX. This Act shall be deemed to be incorporated with the said recited Act, and shall be construed as if the said recited Act (except such parts thereof as have been repealed or amended by this Act) and this Act were one Act.

Extent of Act.

X. This Act shall not extend to Scotland or Ireland.

SCHEDULES REFERRED TO IN THE FOREGOING ACT.

[First Schedule repealed by the S. L. R. Act, 1893.]

SECOND SCHEDULE.

Sect. 4.

Affidavit of Service.

I, *A. B.*, one of the officers of the constabulary of the county of , make oath and say, that I did, on the day of , 18 , duly serve the defendant with a summons [*or* order], a true copy whereof is herewith annexed, marked A, by delivering the same personally to the defendant [*or* by leaving the same with at the place of abode of the defendant].

Sect. 6.

Note.

The Local Government Board have issued two general orders in pursuance of this section, dated respectively August 4th, 1873, and January 8th, 1874, the latter of which contains forms for the guidance of guardians making application under sect. 5 of this Act. (See Macmorran & Lushington's Poor Law Orders, p. 547.)

Schedule.

[I indorse a copy summons (*or* order) thus . This paper, marked A, is the paper referred to in the annexed affidavit.]

Sworn at , in the county of , this day of 18 , before me,
J. B.,
Justice of the Peace for the said county.

POOR ALLOTMENTS MANAGEMENT ACT, 1873.

36 & 37 VICT. CHAP. 19.

An Act for making better provision for the management in certain cases of Lands allotted under Local Acts of Inclosure for the benefit of the poor. [15th May, 1873.]

[Preamble repealed by the S. L. R. Act (No. 2), 1893.]

* * * * *

Interpretation.
8 & 9 Vict. c. 118.

[I.] In this Act "Local Act of Inclosure" shall mean any Act for the inclosure of land passed before the Inclosure Act, 1845, which Act with the subsequent Acts amending the same is intituled "The Acts for the inclosure, exchange, and improvement of land;" and "allotment trustees" shall mean any allotment wardens, trustees, or other functionaries appointed for or lawfully acting in the holding or managing lands intended for or being allotments under any local Act of inclosure for the benefit of the poor, or for field gardens or recreation grounds, or for any public purpose.

Short title.

II. This Act may be cited as "The Poor Allotments Management Act, 1873."

Appointment of committees in certain

III. A committee of not more than twelve nor less than six members of their own body (the number to be from time to

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Sect. 3.
Note.

This section appears to have been framed in ignorance that the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 4, enacts that "all the powers and authorities" contained in 2 Will. 4, c. 42, shall in future be exercised (under the control and subject to the rules, orders, and regulations of the Poor Law Commissioners) by the guardians of the poor of any union or parish formed or established by virtue of any statute or local Act.

This section, moreover, as well as the subsequent sections relating to the appointment and duties of a committee, will be inoperative in any rural parish having a parish council, as the powers and duties of the wardens, committee, or managers are transferred to the

time fixed by the appointing body) shall be appointed annually by the following authorities; that is to say,

Sect. 3.

cases for management of allotments.

(1) By the allotment trustees, or a majority of votes of the allotment trustees present and voting at a meeting summoned as in this Act provided, where the number of allotment trustees for the time being exceeds twenty; and

(2) By the vestry of any parish empowered to make an order in respect of poor allotments in pursuance of the Allotments Act, 1832, where the number of persons for the time being entitled to attend such vestry exceeds twenty.

2 & 3 Will. 4, c. 42.

Committee to exercise powers of authority appointing it.

IV. A committee appointed in pursuance of this Act shall, during the year of their continuance in office, be substituted for and exercise, in respect of lands intended for or being such allotments as in this Act mentioned, all the powers of the allotment trustees (including all powers incident to their estate and ownership), or, as the case may be, of the vestry by which they were appointed.

Appointment of committee to be made annually in August.

V. The appointment of a committee in pursuance of this Act shall take place annually, and the person whose duty it is to summon meetings of any such allotment trustees or vestry as aforesaid shall summon within twelve months after the passing of this Act, for the purpose of appointing a committee as required by this Act, a first meeting of the allotment trustees or vestry of which he is the summoning officer, or meetings whereof he is authorized to summon, and to summon a meeting of the same body for the like purpose, to be held in the month of August in every year thereafter.

How meetings of appointing authority to be summoned.

VI. Any three trustees may summon a meeting of allotment trustees for the purposes of this Act by notice published in the manner in which notices of meetings of vestry are usually published in the place where the allotments or any parts thereof are situate of which such persons are trustees.

Chairman of committee.

VII. A committee appointed in pursuance of this Act may elect a chairman of its meetings, and if no chairman is elected,

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parish council, and it is no longer necessary to appoint a committee (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (4)), and the powers and duties of the vestry are also transferred to the parish council (*ib.*, s. 6 (1)).

Sect. 3. Note.

See the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 2, for the manner in which notices of vestry meetings should be published.

Sect. 6. Note.

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Adjournment of committee. Quorum.

or if the chairman elected is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting. A committee may meet or adjourn as it thinks proper. The quorum of a committee shall consist of such number of members as may be prescribed by the authority that appointed it, or, if no number be prescribed, of three members. Every question at a meeting of a committee shall be determined by a majority of votes of the members present and voting on that question, and in case of an equal division of votes the chairman shall have a second or casting vote.

Vacancies in committees.

VIII. The proceedings of a committee shall not be invalidated by any vacancy or vacancies among its members. Any casual vacancy or vacancies occurring during the year of office in the members of a committee may be filled by the committee itself by the appointment of a person or persons qualified as a member or members of the appointing body to be appointed thereon.

Inclosure Commissioners may appoint committee if authority fail to do so.

IX. If any authority required by this Act to appoint a committee fail to make such appointment within the time limited for making the same, the Inclosure Commissioners for England and Wales may, on the application of any person interested, appoint a committee of persons qualified as members of the body authorized by this Act to appoint the committee to be so appointed ; and before making such appointment the Inclosure Commissioners shall give such notice of their intention to proceed on the application, and shall, by an assistant commissioner or otherwise, institute such local inquiry and hear such parties, and shall require such security from the applicant or upon the income of any allotment for payment of any expenses incurred by them, as, having regard to the circumstances of the application, they think fit, and shall have power to call for the production of any award, rate-book or public document which they may think it necessary or proper to inspect.

[Sect. 10. *Repeal of provision of* 2 *Will.* 4, *c.* 42 : Repealed by the S. L. R. Act, 1883.]

Operation of notice to quit. 2 & 3 Will. 4, c. 42.

XI. The notice to quit mentioned in the fifth section of the Allotments Act, 1832, may be given by a committee, under the hands of any three of its members, for any cause deemed by it sufficient and proper, and shall operate and have effect in the same manner and to the same extent as a notice to quit given for any such cause as in that section mentioned.

Sect. 9. Note.

For "Inclosure Commissioners" now read "Board of Agriculture" (52 & 53 Vict. c. 30).

Sect. 12.

Rent may be required for year in advance.

XII. Notwithstanding anything in the Allotments Act, 1832, contained, it shall be lawful for the authority executing the powers thereof, or of this Act, to require the rent for any land let under it to be paid for the whole year in advance.

Provisions for rates, tithes, &c.

XIII. In all cases in which lands shall be let under the provisions of the Allotments Act, 1832, or of this Act, the allotment trustees, or the overseers and churchwardens or other functionaries in whom the same may be vested, shall for all purposes of rates and taxes be deemed the occupiers of such lands as shall from time to time be so let, and shall pay all rates, taxes, and tithe rent-charge (if any) in respect of the lands so let, and the amount from time to time so paid by them shall be retained by or repaid to them out of the rents received on account of the lands so let before any other application thereof.

Application of rents of land obtained by churchwardens and overseers for the employment of the poor.

2 & 3 Will. 4, c. 42.

59 Geo. 3, c. 12.

1 & 2 Will. 4, cc. 42, 59.

XIV. So much of the Allotments Act, 1832, as provides for the application of rents of lands let under the provisions thereof shall not apply to rents of lands acquired under any of the Public General Acts, the Poor Relief Act, 1819, the Poor Relief Act, 1831, and the Crown Lands Allotments Act, 1831, by guardians or churchwardens and overseers of the poor for the purposes of those Acts, or any of them, but the rents of such lands shall, after deducting all proper charges, be applied in aid of the poor rate of the parish in which such lands are situate.

Lands acquired by

XV. Where any land has been acquired under the said last-recited Acts, or any of them, by guardians or churchwardens

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Sect. 12.

Note.

Sect. 4 of the Allotments Act, 1832, provides that the rent shall be payable at the end of the year's occupation.

By the Allotments Extension Act, 1882 (45 & 46 Vict. c. 80), s. 6, this section is to have no application to any lands with regard to which the provisions of the Allotments Act, 1832, have been put into operation.

Sect. 13.

Note.

See similar provision in the Allotments Extension Act, 1882 (45 & 46 Vict. c. 80), s. 13 (3).

Sect. 14.

Note.

See sect. 8 of the Allotments Act, 1832, as to the application of rents.

Sect. 15.

Note.

The guardians are by the Union and Parish Property Act (5 & 6 Will. 4, c. 69), s. 3, only empowered to sell, exchange, and let such lands, subject to the rules, orders, and regulations of the [Local Government Board]; and these powers are, in the case of a rural parish having a parish council, transferred to the parish council of the parish to which such lands belong (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*d*)).

Sect. 15.

churchwardens and overseers unfit for the purposes to be dealt with under 5 & 6 Will. 4, c. 69, s. 3.

and overseers of the poor of any parish for the purposes of those Acts, and such purposes cannot in the judgment of the board of guardians of the parish, or, as the case may be, of the union comprising such parish, be carried into effect, the same lands shall be sold, exchanged, let, or otherwise disposed of in the manner prescribed by the third section of the Union and Parish Property Act, 1835.

Act not to affect jurisdiction of Charity Commissioners.

16 & 17 Vict. c. 137.

XVI. Nothing in this Act contained shall prejudice or affect any scheme made by the Charity Commissioners in exercise of the powers in that behalf conferred upon them by the Charitable Trusts Act, 1853, or any Act amending the same, in respect of any allotment being a charity within the jurisdiction of those commissioners, or shall exclude or impair any jurisdiction or authority of those commissioners.

Extent of Act.

XVII. This Act shall extend only to England and Wales.

REGULATION OF RAILWAYS ACT, 1873.

36 & 37 VICT. CHAP. 48.

An Act to make better provision for carrying into effect the Railway and Canal Traffic Act, 1854, and for other purposes connected therewith. [21st July, 1873.]

[Only so much of this Act is printed here as relates to the power of referring questions of poor rates upon railways and canals to the commissioners for their decision.]

* * * * *

Short title.

[I.] This Act may be cited as "The Regulation of Railways Act, 1873."

* * * * *

Definitions.

III. In this Act—

The term "railway company" includes any person being the owner or lessee of or working any railway in the United Kingdom constructed or carried on under the powers of any Act of Parliament:

The term "canal company" includes any person being the owner or lessee of, or working, or entitled to charge tolls for the use of any canal in the United Kingdom constructed or carried on under the Powers of any Act of Parliament:

The term "person" includes a body of persons corporate or unincorporate:

Sect. 3.

The term "railway" includes every station, siding, wharf, or dock of or belonging to such railway and used for the purposes of public traffic:

The term "canal" includes any navigation which has been made under or upon which tolls may be levied by authority of Parliament, and also the wharves and landing-places of and belonging to such canal or navigation, and used for the purposes of public traffic.

* * * * *

Power to refer differences to commissioners.

IX. Any difference to which a railway company or canal company is a party, may, on the application of the parties to the difference, and with the assent of the commissioners, be referred to them for their decision.

* * * * *

Orders of commissioners.

XXVI. Any decision or any order made by the commissioners for the purpose of carrying into effect any of the provisions of this Act may be made a rule or order of any superior court, and shall be enforced either in the manner directed by section three of the Railway and Canal Traffic Act, 1854, as to the writs and orders therein mentioned, or in like manner as any rule or order of such court.

For the purpose of carrying into effect this section, general rules and orders may be made by any superior court in the same manner as general rules and orders may be made with respect to any other proceedings in such court.

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e ct. 9.

Note.

Since the passing of this Act two cases of poor rates upon railways have been referred by consent to the decision of the commissioners, and are reported in Macnamara's Railway and Canal Traffic Cases, vol. 2, pp. 53, 240. But the rating authorities conceived the opinion that the railways were too favourably dealt with by that tribunal, and consequently no case has of late years been referred to it.

As to the restriction upon the power of the commissioners to award costs in deciding any difference under this section see the Railway and Canal Traffic Act, 1894 (57 & 58 Vict. c. 54), s. 2.

Sect. 26.

Note.

The remainder of this section is repealed by the Railway and Canal Traffic Act, 1888 (51 & 52 Vict. c. 25).

As to appeals against decisions of the commissioners, see now the Railway and Canal Traffic Act, 1888 (51 & 52 Vict. c. 25), s. 17. A decision of the commissioners under sect. 9 of this Act was, by the repealed part of this section, final unless the commissioners, if they thought fit, stated a special case for the Queen's Bench upon a point of law arising in the matter.

It would hardly be possible to enforce a decision of the commissioners made under sect. 9 as to a poor rate in the manner directed by sect. 3 of the Railway and Canal Traffic Act, 1854 (17 & 18 Vict. c. 31). That section deals only with the making and enforcement of writs of injunction or interdict, and such decision must therefore, if necessary, be enforced in the other manner indicated in this section.

ELEMENTARY EDUCATION ACT (1870), AMENDMENT ACT, 1873.

36 & 37 VICT. CHAP. 86.

An Act to amend the Elementary Education Act (1870), and for other purposes connected therewith.

[5th August, 1873.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short title. 33 & 34 Vict. c. 75.

I. This Act may be cited as the Elementary Education Act, 1873 ; and this Act and the Elementary Education Act, 1870 (in this Act referred to as the principal Act), may be cited together as the Elementary Education Acts, 1870 and 1873.

Construction of Act.

II. This Act shall be construed as one with the principal Act, and the expression "this Act" in the principal Act shall be construed to include this Act.

[Sect. 3. *Repeal of* 18 *&* 19 *Vict. c.* 34 (*Denison's Act*), *and substitution of other provisions :* Repealed by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), and other provisions substituted by sect. 40 of that Act, and by 43 & 44 Vict. c. 23, s. 5.]

[Sect. 4. *Power of Local Government Board as to relief and guardians :* Repealed by the S. L. R. Act, 1883. For substituted provisions see the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 34.]

Elections.

Confirmation of orders as to elections, &c.

V. The orders and regulations of the Education Department mentioned in the first schedule to this Act, and all orders of the Education Department incorporating the said orders or regulations, so far as they so incorporate them, are hereby confirmed, and shall be deemed to have been duly made, and to have been within the powers contained in the principal Act, and shall continue in force until revoked or altered by any order made under the provisions of the principal Act as amended by this Act.

Election of school board.

VI. The principal Act shall be construed as if there were substituted for the rules numbered one and three in the first

part of the second schedule to the principal Act the rules in the second schedule to this Act, and the references in the principal Act to the second schedule to that Act, or the first part of that schedule, shall be construed to refer to the said schedule or the first part thereof, with the provisions so substituted. Sect. 6.

Overseers to allow inspection of rate-books and otherwise assist returning officers.

VII. If any overseer or other officer has in his possession or under his control any rate-book or other document which under the Elementary Education Acts, 1870 and 1873, or any order made thereunder, constitutes the register of persons entitled to vote at an election of a school board, or at the passing of a resolution for an application for a school board, and such overseer or other officer refuses or fails to comply with the directions of any order of the Education Department confirmed by this Act, or made in pursuance of the Elementary Education Acts, 1870 and 1873, with respect to the production, inspection, or copying of such book or document, or the assisting any returning officer at any such election or passing of a resolution, such overseer or officer shall be liable, on summary conviction, to a penalty not exceeding five pounds for every day during which he so refuses or fails.

[Sect. 8. *Amendment of* 33 *&* 34 *Vict. c.* 75, *s.* 91, *as to corrupt practices at elections:* Repealed by the S. L. R. Act, 1893. Its provisions are replaced by the provisions of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).]

Questioning of election and resolution.

IX. The election of any member of a school board, and the passing of a resolution for an application for a school board under the Elementary Education Acts, 1870 and 1873, shall not be questioned except within six months after the declaration of the election of such member or of the passing of such resolution, whether such declaration was made before or after the passing of this Act.

Miscellaneous Amendments of 33 *&* 34 *Vict. c.* 75.

Amendment of 33 & 34 Vict. c. 75, s. 57, as to loans.

X. The principal Act and Acts referring thereto shall be construed as if, for section fifty-seven, which is repealed by this Act, there were substituted the following section:

Sect. 7. Note.

See sect. 79 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75) for production of valuation lists and rate-book to the school board; and Schedule II., Part 1 (*c*), of this Act as to the rate-book being the register of ratepayers entitled to vote at an election.

Sect. 10. Note.

Parts of this section, which are omitted, are repealed by the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51), and the S. L. R. Act, 1883. School boards can only borrow in manner and for purposes designated by statute, and cannot therefore borrow money for the purpose of meeting current expenses (*Reg.* v. *Reed*, 5 Q. B. D. 483; 49 L. J. Q. B. 603; 42 L. T. 835; 28 W. R. 787).

Sect. 10.

Where a school board have incurred or require to incur any expense, either—

(*a.*) in providing or enlarging a schoolhouse; or

(*b.*) in paying off any debt charged on a schoolhouse provided by them, or on any land acquired by them by gift, transfer, purchase, or otherwise for the purposes of this Act; or

(*c.*) in any works of improving or fitting up a schoolhouse which, in the opinion of the Education Department, ought by reason of the permanent character of such works to be spread over a term of years,

they may, with the consent of the Education Department, spread the payment over such number of years not exceeding fifty, as may be sanctioned by the Education Department, and may, with the like consent, for that purpose borrow money on security of the school fund and local rate, and may charge that fund and the local rate with the payment of the principal and interest due in respect of the loan. They may, if they so agree with the mortgagee, pay the amount borrowed with the interest by equal annual instalments not exceeding fifty, and if they do not so agree they shall annually set aside one-fiftieth of the sum borrowed as a sinking fund: Provided that no such consent of the Education Department shall be granted unless proof be given to their satisfaction that the additional school accommodation which it is proposed to supply is required in order to provide for the educational wants of the district:

10 & 11 Vict. c. 16.

For the purpose of such borrowing the clauses of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the school board which is borrowing shall be deemed to be the commissioners:

The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required under this section on the security of the school fund and local rate without requiring any further or other security, such loan to be repaid within such number of years not exceeding fifty, as may be recommended by the Education Department, and to bear interest.

* * * * *

Amendment of 33 & 34 Vict. c. 75, ss. 12, 40.

XI. The provisions of section twelve of the principal Act shall extend to authorize the Education Department, if they think fit, to form a united school district, and upon such union to cause a school board to be formed for such united school district, in like manner and under the like circumstances as it authorizes them to cause a school board to be formed for any

Sect. 11.

school district, without making the inquiry or publishing the notices required by the principal Act, but after such inquiry, public or other, and such notice as the Education Department think sufficient: Provided that a resolution in favour of union shall be passed in each district separately, and if a school board has been elected in any such district, by the school board.

Union of detached parts of parishes for purposes of Act.

XII. Where any part of a parish is detached from the principal part of a parish, the Education Department may, with the consent of the Local Government Board, by order direct that each such part of the said parish shall, and the same shall accordingly, as from the date of the order or any later date specified in the order, be, for the purposes of the principal Act and this Act, a parish by itself, and section *fifty-seven* of the principal Act shall apply thereto in like manner as if such part of a parish were the part of a parish situate outside a borough.

The provisions of section fifty-six of the principal Act, with respect to raising a sum from any place which is part of a parish, shall, where necessary, apply to a part of a parish, although under this section it is deemed to be a parish by itself.

Power of school board to accept gifts for educational purposes.

XIII. A school board shall be able and be deemed always to have been able to be constituted trustees for any educational endowment or charity for purposes connected with education, whether such endowment or charity was established before or after the passing of the principal Act, and to have and always to have had power to accept any real or personal property given to them as an educational endowment or upon trust for any purposes connected with education: Provided that—

(1) Nothing in this section shall enable a school board to be trustees for or accept any educational endowment, charity, or trust, the purposes of which are inconsistent with the principles on which the school board are required by section fourteen of the principal Act to conduct schools provided by them; and,

(2) Every school connected with such endowment, charity, or trust shall be deemed to be a school provided by the school board, except that nothing in this section shall authorize the school board to expend any money

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Sect. 12.

Note.

The reference in this section to sect. 57 of the principal Act is an error, the reference should be to sect. 77.

See now the powers of the Local Government Board as to dealing with divided parishes for the purpose of school districts with the sanction of the Education Department, contained in the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), ss. 1—9, and the Acts extending the same, viz., the Poor Law Act, 1879 (42 & 43 Vict. c. 54), ss. 4–6, and the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), ss. 2—5.

Sect. 13.

out of the local rate for any purpose other than elementary education; and,

(3) Nothing in this section shall affect the law of mortmain.

* * * * *

Amendment of 29 & 30 Vict. c. 118. s. 12, as applied to school boards.

XIV. Where a school board exercises the powers of a prison authority under the Industrial Schools Act, 1866, not less than fourteen days, instead of not less than two months, previous notice shall be given of the intention of the school board to take into consideration the making of the contribution mentioned in section twelve of that Act.

Amendment of 33 & 34 Vict. c. 75, s. 20.

XV. For the purpose of the purchase of land otherwise than by agreement under section twenty of the principal Act, the Act confirming an order of the Education Department for such purchase, together with the principal Act, shall be deemed to be the special Act.

Valuation list in metropolis.

XVI. The principal Act shall be construed as if there were substituted for sub-section ten of section thirty-seven thereof the following words:

The school board shall apportion the amount required to be raised to meet the deficiency in the school fund among the different parts of the metropolis mentioned in the third column of the first schedule to this Act, in proportion to the rateable value of such parts, as shown by the valuation lists for the time being in force under the Valuation (Metropolis) Act, 1869, or any other Act for making valuation lists, or, where there is no such valuation list, in the same proportion and according to the same basis in and according to which the then last rate made by the *Metropolitan Board of Works* was assessed.

* * * * *

Making up and examination of accounts.

XVII. The accounts of a school board shall be made up and balanced to the twenty-fifth day of March and twenty-ninth day of September in every year, or, if so directed by regulation under this Act, annually to one of those days in every year.

The accounts shall be examined by the school board and signed by the chairman within such time, not exceeding two months after the day to which they are made up, as may be fixed by a regulation under this Act.

As soon as practicable after the accounts are so signed they shall be audited.

Sect. 16. Note.

This section is repealed in part by the S. L. R. Act, 1883.

For "Metropolitan Board of Works" now read "London County Council."

Sect. 17. Note.

The "regulation" now in force is an order of the Local Government Board, dated July 14th, 1880.

Sect. 18.

Amendment of 33 & 34 Vict. c. 75, s. 60.

XVIII. The principal Act shall be construed as if for subsection nine of section sixty thereof there were substituted the following words:

> Subject to the provisions of this section, the Local Government Board may from time to time make such regulations as may be necessary respecting the form of keeping the accounts, the audit thereof, the mode of publishing the time and place of holding the audit, the time within which the accounts are to be examined by the school board and signed by the chairman, and (with the consent of the Education Department,) the school boards or class of school boards the accounts of which are to be made up only annually, and the day to which they are to be so made up in every year.

* * * * *

Extension of 33 & 34 Vict. c. 75, s. 70, to returns.

XIX. Where the Education Department have power under the principal Act to require any local authority to send to them a return, the Education Department, without requiring such local authority to make the return, shall have the same power of appointing a person or persons to make such return as they would have under section seventy of the principal Act if the local authority had been required to make and had failed to make such return.

Notices for purposes of Elementary Education Acts.

XX. Notices and other matters required by the Elementary Education Acts, 1870 and 1873, to be published shall, unless otherwise expressly provided, be published either by advertisement, and by affixing the same on the doors of churches and chapels, and other public places, or in such other manner as the Education Department may either generally or with respect to any particular district, place, or notice, or class of districts, places, or notices, by order determine, as being in their opinion sufficient for giving information to all persons interested; and all overseers, assistant overseers, and officers of guardians shall comply with the directions of the Education Department with respect to such notices, and any expenses incurred by them in carrying into effect this section may be paid as their expenses under the Acts relating to the relief of the poor.

Every person who wilfully tears down, injures, or defaces any notice affixed in pursuance of the Elementary Education Acts, 1870 and 1873, or any order of the Education Department made thereunder, shall be liable on summary conviction to a penalty not exceeding forty shillings.

Sect. 18.

Note.

See the District Auditors Act, 1879 (42 Vict. c. 6), s. 5.

Sect. 20.

Note.

As to the ultimate incidence of expenses incurred by officers of guardians in carrying this section into effect, see the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 34.

Sect. 21.

Amendment of 33 & 34 Vict. c. 75, 3rd sched.

XXI. The regulations in the third schedule to this Act shall be substituted for the regulations in the third schedule to the principal Act which are repealed by this Act. . . .

Returns by schools to school boards.

XXII. In any school district in which a bye-law under section seventy-four of the principal Act is in force, the school board of such district may from time to time supply forms to any public elementary school for the purpose of obtaining reasonable information with respect to the attendance of children residing in their district who attend such school; and the managers of such school, if they fail to cause such forms to be truly filled up and returned in manner required by the school board, or to cause such information to be given as will enable the school board to ascertain whether a child resident within their district and attending that school attends the same in manner required by the said bye-law, shall cause to be produced to such member or officer of the school board or other person as may be duly authorized in that behalf by the school board at any reasonable time when required by him the registers and other books and documents containing information with respect to the attendance of children at such school, and shall permit him to inspect and take copies of and extracts from the same.

If any difference arises between a school board and the managers of a public elementary school as to whether the information required by the said forms is or is not reasonable, such difference shall be referred to the Education Department, whose decision shall be final.

Legal Proceedings.

Legal proceedings.

XXIII. All offences and penalties under the principal Act or this Act, or any bye-law under the principal Act, which may be prosecuted or recovered on summary conviction may be prosecuted and recovered in manner provided by the Summary Jurisdiction Acts.

The court of summary jurisdiction, when hearing and determining an information or complaint, shall be constituted either of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty sessions, or of some

Sect. 21.

Repealed in part by the S. L. R. Act, 1883.

Note.

Sect. 22.

It appears that the powers conferred by this section on school boards are extended to school attendance committees by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 23.

Note.

Sect. 23.

This section is made applicable to offences and penalties under the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), by sect. 37 of that Act.

Note.

magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorized to be done by more than one justice of the peace. Sect. 23.

XXIV. With respect to proceedings before a court of summary jurisdiction for offences and penalties under the principal Act, or this Act, or any bye-law under the principal Act, the following provisions shall have effect: Regulations as to legal proceedings.

* * * * *

(3) In any proceeding for an offence under a bye-law, the court may, instead of inflicting a penalty, make an order directing that the child shall attend school, and that if he fail so to do, the person on whom such order is made shall pay a penalty not exceeding the penalty to which he is liable for failing to comply with the bye-law:

(4) Any justice may require by summons any parent or employer of a child, required by a bye-law to attend school, to produce the child before a court of summary jurisdiction, and any person failing, without reasonable excuse to the satisfaction of the court, to comply with such summons shall be liable to a penalty not exceeding twenty shillings:

(5) A certificate purporting to be under the hand of the principal teacher of a public elementary school, stating that a child is or is not attending such school, or stating the particulars of the attendance of a child at such school, or stating that a child has been certified by one of Her Majesty's inspectors to have reached a particular standard of education, shall be evidence of the facts stated in such certificate:

(6) Where a child is apparently of the age alleged for the purposes of the proceeding, it shall lie on the defendant to prove that the child is not of such age:

(7) If a child is attending an elementary school which is not a public elementary school, it shall lie on the defendant to show that the school is efficient, and the court, in considering whether any elementary school is efficient, shall have regard to the age of the child and to the

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Sect. 24. Note.

Sub-sects. (1) and (2) of this section are repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), but similar provisions are contained in the S. J. Act, 1876 (42 & 43 Vict. c. 79), s. 39 (1), (2).

This section is made applicable to offences and penalties under the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), by sect. 37 of that Act.

Sect. 24.

standard of education corresponding to such age prescribed by the minutes of the Education Department for the time being in force with respect to the Parliamentary grant:

(8) Where a school board are, by reason of the default of the managers or proprietor of an elementary school, unable to ascertain whether a child who is resident within the district of such school board and attends such school attends school in conformity with a bye-law made by such school board, it shall lie on the defendant to show that the child has attended school in conformity with the bye-law:

(9) Any person may appear by any member of his family or any other person authorized by him in this behalf.

Forgery of certificate, and giving false information.

XXV. Every person who forges or counterfeits any certificate which is by this Act made evidence of any matter, or gives or signs any such certificate which is to his knowledge false in any material particular, or, knowing any such certificate to be forged, counterfeit, or false, makes use thereof, shall be liable on summary conviction to imprisonment for a period not exceeding three months, with or without hard labour.

Definitions and Repeal.

Schedules part of Act.

XXVI. The schedules to this Act shall be of the same force as if they were enacted in the body of this Act.

Interpretation.

XXVII. In this Act—

"Guardians."

The term "guardians" includes any body of persons performing the functions of guardians within the meaning of the Acts relating to the relief of the poor:

"Union."

The term "union" means any union or incorporation of parishes under any general or local Act, and any single parish having guardians as defined by this Act under any general or local Act:

"Common fund."

The term "common fund" means, in the case of a union which comprises only one parish, the fund applicable to the relief of the poor of such parish:

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Sect. 25.

Note.

Extended by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 37.

Sect. 27.

Note.

The definitions of "Summary Jurisdiction Acts," and "court of summary jurisdiction," are repealed by the S. L. R. Act (No. 2), 1893; they are replaced by sect. 13 (7), (10), (11) of the Interpretation Act, 1889 (52 & 53 Vict. c. 63).

Sect. 28.
Repeal and savings.

XXVIII. The principal Act is hereby repealed, to the extent specified in the third column of the fourth schedule to this Act.

Provided that—

(1) Any order or regulation of the Education Department made under any enactment hereby repealed shall continue in force as if it had been made under this Act.

(2) Any school board elected under any enactment hereby repealed shall continue and be deemed to have been elected under this Act:

(3) The repeal of any Act or enactment by this Act shall not—

(*a.*) Affect anything duly done or suffered under any such Act or enactment; or

(*b.*) Affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any such Act or enactment, or bye-law; or

(*c.*) Affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any such Act, enactment, or bye-law; or

(*d.*) Affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed.

SCHEDULES.

FIRST SCHEDULE.

Orders and Regulations of the Education Department relating to Elections of and Applications for School Boards.

7th October, 1870. Order fixing the boundaries of the divisions of the metropolis, with the number of members to be elected by each division, and appointing the returning officer for the first election of the school board for London and his deputies.

27th October, 1870. Order regulating the first election of the school board for London.

27th October, 1870. General regulations for the first election of school boards in boroughs.

21st December, 1870. General regulations for the first election of school boards in parishes not situate within municipal boroughs, or within the metropolis

Schedules.

21st December, 1870. General regulations as to passing resolutions for application for school boards in parishes not situate within municipal boroughs or within the metropolis.

6th January, 1871. Regulations for the first election of a school board for the district of the local board of Oxford.

15th March, 1873. General regulations as to the formation of united school districts.

SECOND SCHEDULE.

Rules respecting Election of Members of a School Board.

(1) The election of a school board shall be held at such time and in such manner and in accordance with such regulations as the Education Department may from time to time by order prescribe; and the Education Department may by order appoint or direct the appointment and make regulations as to the duties, remuneration, and expenses of any officers requisite for the purpose of such election, and do and make regulations respecting all other necessary things preliminary or incidental to such election, and revoke or alter any previous order, whether confirmed by or made in pursuance of this Act.

Provided as follows:

(*a.*) The candidates at every election shall be nominated in writing:

(*b.*) Any poll shall, so far as circumstances admit, be conducted in like manner in which the poll at a contested municipal election is directed by the Ballot Act, 1872, to be conducted; and, subject to any exceptions or modifications contained in any order of the Education Department made in pursuance of this Act, the Ballot Act, 1872, shall apply in the case of the election of a school board in like manner as if the provisions thereof were herein enacted with the substitution of "school board election" for "municipal election":

35 & 36 Vict. c. 33.

(*c.*) In a parish which is not situate in the city of London or in a borough, other than the borough of Oxford, the book containing the last rate made for such parish more than one month previously to any date shall be the register of the ratepayers entitled to vote in such parish at that date; and every ratepayer whose name appears in such rate-book shall be entitled to vote unless he is disqualified for voting, and no person shall be entitled to vote whose name does not so appear.

(2) Elections to fill casual vacancies in the metropolis and elsewhere shall be held only on the day in the year appointed or prescribed for the election of members, unless the Education Department order an election to be held on some other day, in pursuance of the rule numbered sixteen in the first part of the second schedule to the principal Act.

(3) An order made in pursuance of this schedule shall, save as otherwise provided by such order, apply to all school boards.

THIRD SCHEDULE.

Proceedings of School Board.

The following regulations shall be construed as part of the conditions mentioned in rule one in the third schedule to the principal Act; that is to say,

(*b.*) Not less than one ordinary meeting shall be held in each month, but where the board ordinarily meet more than once in every month, they may, by resolution passed by a majority of not less than two-thirds of the members present and voting on the question, resolve not to have an ordinary meeting in the months of August and September, or one of such months. One meeting shall be held as soon as possible after every triennial election of members:

(*f.*) The names of the members present, and in the case of a division the names of those voting upon each question shall be recorded:

(*g.*) No business involving the appointment or dismissal of a teacher, any new expense, or any payment (except the ordinary periodical payments), or any business which under this Act requires the consent of the Education Department, shall be transacted unless notice in writing of such business has been sent to every member four days at least before the meeting.

FOURTH SCHEDULE.

Act repealed.

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or

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otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Short Title	Extent of Repeal.
34 & 35 Vict. c. 75.	The Elementary Education Act, 1870.	The sub-section numbered ten in section thirty-seven; section fifty-seven; section fifty-nine; the sub-section numbered nine in section sixty; sections eighty and eighty-nine; section ninety, from "knowingly personate" to "voting in any such election or;" the rules numbered one and three in the first part of the second schedule; so much of the rule numbered six in the third part of the second schedule as relates to fixing a day for a casual election, and the conditions in rule one of the third schedule marked (*b*), (*f*), and (*g*).

THE RATING ACT, 1874.

37 & 38 VICT. CHAP. 54.

An Act to amend the Law respecting the Liability and Valuation of certain Property for the purpose of Rates.

[7th August, 1874.]

Short title.

[I.] This Act may be cited as "The Rating Act, 1874."

Extent of Act.

II. This Act shall not apply to Scotland or Ireland.

Abolition of certain exemptions from rating.

III. [*Recital of* 43 *Eliz. c.* 2, *which Act and the Acts amending the same are in this Act referred to as the Poor Rate Acts.*]

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Note.

The recitals in this section are repealed by the S. L. R. Act, 1893.

By the statute of Elizabeth, coal mines were made rateable to the poor, and as coal mines were specially mentioned in the statute, it was held that mines of any other description were not rateable, a principle of interpretation which received the sanction of the House of Lords in 1871 (*Crawshay* v. *Morgan*, L. R. 5 H. L. 304; 40 L. J. M. C. 202; 24 L. T. (N. S.) 889; 20 W. R. 554; 35 J. P. 596). Coal mines remain rateable on the same principles as before

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43 Eliz. c. 2.

The Poor Rate Acts shall extend to the following hereditaments in like manner as if they were mentioned in the Poor Relief Act, 1601; that is to say,

(1) To land used for a plantation or a wood or for the growth of saleable underwood, and not subject to any right of common;

(2) To rights of fowling, of shooting, of taking or killing game or rabbits, and of fishing, when severed from the occupation of the land; and

(3) To mines of every kind not mentioned in the recited Act.

Valuation of land used as plantation, &c.

IV. The gross and rateable value of any land used for a plantation or a wood, or for the growth of saleable underwood, shall be estimated as follows:—

(*a.*) If the land is used only for a plantation or a wood, the value shall be estimated as if the land instead of being a plantation or a wood were let and occupied in its natural and unimproved state:

(*b.*) If the land is used for the growth of saleable underwood,

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Note.

this Act, and as the special rules of rating laid down by this Act only apply to tin, lead, and copper mines, mines of any other description than these are now rateable on the same principle as coal mines.

In the same way, inasmuch as the statute of Elizabeth made "saleable underwoods" rateable to the poor, it was inferred that none other than underwood was rateable. This provision as to "saleable underwoods" in 43 Eliz. c. 2, is now repealed by sect. 14 of this Act.

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Note.

The test of saleable underwood is not whether the tree is timber either by the general law or the custom of the country, but whether it is managed in such a way as to produce a renewable profit, though it may not be available for many years (*Fitzhardinge* v. *Pritchett*, L. R. 2 Q. B. 135; 8 B. & S. 216; 36 L. J. M. C. 49; 15 L. T. (N. S.) 562; 15 W. R. 640).

Woodlands were assessed by quarter sessions on appeal at the rateable value if occupied in their natural and unimproved state, but it was found as a fact that they might be rendered worth a much larger sum to a tenant from year to year if a certain expenditure were incurred for grubbing up woods, draining and road making. Upon a case stated it was held that the sessions were right, and that under this Act woods were not to be rated on any assumption of their improved value upon alteration into land of a different description (*Westmoreland, Earl of*, v. *Southwick and Oundle*, 36 L. T. (N. S.) 108); but in estimating the value of land used as a plantation or wood, the value of the right of sporting over the same should be taken in account in arriving at the value of the land in its natural and unimproved state (*Eyton* v. *Mold*, 6 Q. B. D. 13; 43 L. T. 472; 29 W. R. 122; 45 J. P. 54; contrary to *Baker* v. *Beyford, Overseers*, 33 L. T. (N. S.) 755).

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the value shall be estimated as if the land were let for that purpose:

(*c.*) If the land is used both for a plantation or a wood, and for the growth of saleable underwood, the value shall be estimated either as if the land were used only for a plantation or a wood, or as if the land were used only for the growth of the saleable underwood growing thereon, as the assessment committee may determine.

Deduction of rate by tenant of plantation, &c.

V. Where the rateable value of any land used for a plantation or a wood, or both for a plantation or wood and for the growth of saleable underwood, is increased by reason of the same being estimated in accordance with this Act, the occupier of that land under any lease or agreement made before the commencement of this Act, may, during the continuance of the lease or agreement, deduct from his rent any poor or other local rate, or any portion thereof, which is paid by him in respect of such increase of rateable value, and every assessment committee, on the application of such occupier, shall certify in the valuation list or otherwise the fact and amount of such increase.

Valuation and rating of rights of shooting.

VI.—(1) Where any right of fowling or of shooting or of taking or killing game or rabbits, or of fishing

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Note.

Before the passing of this Act a right of sporting or fishing severed from the land was not rateable, on the ground that it was an incorporeal hereditament (*Hilton and Walkerfield* v. *Bowes*, L. R. 1 Q. B. 359; 35 L. J. M. C. 137; 13 L. T. (N. S.) 512; 14 W. R. 368); but where the owner and occupier of land let the right of shooting, the rent received by him was taken into account as enhancing the rateable value of the land (*Reg.* v. *Battle*, L. R. 2 Q. B. 8; 8 B. & S. 12; 36 L. J. M. C. 1; 15 L. T. (N. S.) 180). Since the passing of this Act this may still be done: but the overseers may instead, at their option, rate the lessee of the sporting rights (*Kenrick* v. *Guilsfield*, 5 C. P. D. 41; 49 L. J. M. C. 27; 41 L. T. 624; 28 W. R. 372).

As to the meaning of "severed from the occupation of the land": The owner of a tenement with dwelling-house and other buildings containing about nineteen acres, leased the same, excepting plantations and all timber "and all mines, &c., and also excepting all manner of game, hares, rabbits and wildfowl, with liberty of hunting, fowling, and fishing over and through the said premises at all times during the said term:" upon a case stated it was held that this lease reserved to the appellant a right of sporting which was severed from the occupation of the land, and therefore rateable within this section (*Rogers* v. *St. German's Union*, 35 L. T. (N. S.) 332). So where the owner of an estate demises the right of sporting over the estate retaining the land in his own occupation, the right of sporting is severed from the occupation of the land within the meaning of sub-sect. (2) of this section (*Kenrick* v. *Guilsfield*, 5 C. P. D. 41; 49 L. J. M. C. 27; 41 L. T. 624; 28 W. R. 372).

Where the tenant of a farm pays an increased rent for the privilege of killing game on the farm, he is liable to be rated in respect

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(herein-after referred to as a right of sporting) is severed from the occupation of the land and is not let, and the owner of such right receives rent for the land, the said right shall not be separately valued or rated, but the gross and rateable value of the land shall be estimated as if the said right were not severed; and in such case if the rateable value is increased by reason of its being so estimated, but not otherwise, the occupier of the land may (unless he has specifically contracted to pay such rate in the event of an increase) deduct from his rent such portion of any poor or other local rate, as is paid by him in respect of such increase; and every assessment committee, on the application of the occupier, shall certify in the valuation list or otherwise the fact and amount of such increase.

(2) Where any right of sporting, when severed from the occupation of the land is let, either the owner or the lessee thereof, according as the persons making the rate determine, may be rated as the occupier thereof.

(3) Subject to the foregoing provisions of this section,

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of that increased value; and where the tenant originally took a farm without such privilege, but afterwards rented the privilege of shooting over a large area, including the farm, at a certain rent: *held* that he was in the same position as if he had originally taken the farm with the privilege; and that his rate was properly increased by the sum which the sessions had found as the value of so much of the privilege as related to the farm (*Reg.* v. *Williams*, 23 L. T. 76; 5 Jur. (N. S.) 821; 18 J. P. 502).

Before this Act, the Crown granted the manor of Rodney, and also, "all that our fishery of the halves and havendoles," &c., within the river Severn (in such terms that it was probably meant to convey, not merely a right of fishing, but some right of soil in the river itself), to Lord Carey, who conveyed the same in fee to one Young, and Young leased the fishery (in the terms of the grant) to another for 1,000 years, at a yearly rent, and the term came by assignment to the defendant. The defendant being rated for this fishery, appealed, and the sessions confirmed the rate; and the court said that they could not quash the order of sessions, unless they were satisfied that the sessions could not upon any reasonable ground, conclude that by this grant some territorial right was conveyed: and here the presumption was the other way (*Rex* v. *Ellis*, 1 M. & S. 652).

By a local Fishery Act, commissioners were empowered to raise a rate from every owner of a fishery in their district. The appellant was tenant of a fishery, for which he paid a rent of 305*l.*, and a rate of 61*l.* to the commissioners. It was held that in ascertaining the rateable value of the fishery the amount of the rate should be deducted, as it was an "expense necessary to maintain the property in a state to command such rent" (*Reg.* v. *Smith*, 55 L. J. M. C. 49; 54 L. T. 431; 50 J. P. 215).

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the owner of any right of sporting, when severed from the occupation of the land, may be rated as the occupier thereof.

(4) For the purposes of this section, the person who, if the right of sporting is not let, is entitled to exercise the right, or who, if the right is let, is entitled to receive the rent for the same, shall be deemed to be the owner of the right.

Gross and rateable value of tin, lead, and copper mines.

VII. Where a tin, lead, or copper mine is occupied under a lease or leases granted without fine on a reservation wholly or partly of dues or rent, the gross value of the mine shall be taken to be the annual amount of the whole of the dues payable in respect thereof during the year ending on the thirty-first day of December preceding the date at which the valuation list is made, in addition to the annual amount of any fixed rent reserved for the same which may not be paid or satisfied by such dues.

The rateable annual value of such mine shall be the same as the gross value thereof, except that where the person receiving the dues or rent is liable for repairs, insurance, or other expenses necessary to maintain the mine in a state to command the annual amount of dues or rent, the average annual cost of the repairs, insurance, and other expenses for which he is so liable, shall be deducted from the gross value for the purpose of calculating the rateable value.

In the following cases, namely,—

1. Where any such mine is occupied under a lease granted wholly or partly on a fine; and
2. Where any such mine is occupied and worked by the owner; and

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Note.

A mining company occupied a lead mine held under a lease, which comprised land and works in a neighbouring union, the mine and most of the works being in that of the respondents. After the ore was crushed and washed it was taken by a tramway about half-a-mile to a smelting-house, occupied under the same lease, in the neighbouring union, where the ore was converted into lead for sale. The company were rated under this section for their mine in the respondents' union at the amount of the whole of the dues payable in respect of the mine under the lease during the previous years. They were separately rated for part of the tramway to, and a chimney from, the smelting-house, which were situated in the respondents' union; and were also rated by the neighbouring union for the land, works and smelting-house there situated. It was held that all these crushing, washing and smelting works were included under the definition in this section, as "in connection with and for the purposes of the mine," and that a deduction should be made from the gross dues in respect of the rateable premises out of the union, in order to obtain the rateable value of the mine in the respondents' union (*Snailbeach Mine Co.* v. *Forden Union*, 35 L. T. (N. S.) 514).

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3. In the case of any other such mine which is not excepted from the provisions of this Act and to which the foregoing provisions of this section do not apply;

the gross and rateable annual value of the mine shall be taken to be the annual amount of the dues or dues and rent at which the mine might be reasonably expected to let without fine on a lease of the ordinary duration, according to the usage of the country, if the tenant undertook to pay all tenants' rates and taxes and tithe rent-charge, and also the repairs, insurance, and other expenses necessary to maintain the mine in a state to command such annual amount of dues or dues and rent.

The purser, secretary, and chief managing agent for the time being of any tin, lead, or copper mine, or any of them, may, if the overseers or other rating authority think fit, be rated as the occupier thereof.

In this section—

The term "mine," when a mine is occupied under a lease, includes the underground workings, and the engines, machinery, workshops, tramways, and other plant, buildings (not being dwelling-houses), and works and surface of land occupied in connection with and for the purposes of the mine, and situate within the boundaries of the land comprised in the lease or leases under which the dues or dues and rent are payable or reserved:

The term "dues," means dues, royalty, or toll, either in money or partly in money and partly in kind; and the amount of dues which are reserved in kind means the value of such dues:

The term "lease" means lease or sett, or licence to work, or agreement for a lease or sett, or licence to work:

The term "fine" means fine, premium, or foregift, or other payment or consideration in the nature thereof:

Deduction of rate by tenant of mine.

VIII. Where any poor or other local rate which at the commencement of this Act any lessee, licensee, or grantee of a mine is exempt from being rated to in respect of such mine, becomes payable by him in respect of such mine during the continuance of his lease, grant, or licence, or before the arrival of the period at which the amount of the rent, royalty, or dues is liable to revision or re-adjustment he may (unless he has

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Note.

A covenant in a lease of ironstone mines to pay a certain rent "free of all rates, taxes and deductions whatsoever, Parliamentary, parochial or of any other nature," is not a "specific contract to pay the poor rate, in the event of the abolition of the exemption" of ironstone mines within the meaning of this section, and the lessee is therefore entitled under this section to deduct half the poor rate from the rent (*Devonshire, Duke of*, v. *Barrow Hematite Steel Co.*, 2 Q. B. D. 286; 46 L. J. Q. B. 435; 36 L. T. (N. S.) 355; 25 W. R. 469). Where a lease of an ironstone mine made in 1855 contained

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specifically contracted to pay such rate in the event of the abolition of the said exemption) deduct from any rent, royalty, or dues payable by him one-half of any such rate paid by him:

Provided that he shall not deduct any sum exceeding what one-half of the rate in the pound of such poor or other local rate would amount to if calculated upon the rent, royalty, or dues so payable by him.

General provision as to deduction of rates.

IX. Where any occupier, lessee, licensee, grantee or other person is authorized by this Act to deduct any rate or sum in respect of a rate from any rent, royalty, or dues payable by him, then—

(1) Any payment so authorized to be deducted shall be a good discharge for such amount of rent, royalty, or dues as is equal to the amount of such payment, and shall be allowed accordingly.

(2) Any payment so authorized to be deducted may be recovered as an ordinary debt from the person to whom the rent, royalty, or dues may be payable.

(3) The person receiving the rent, royalty, or dues shall have the same right of appeal and objection with reference to the rate and to the valuation of the hereditament in respect of which the rate is payable as he would have if he were the occupier of such hereditament.

Liability of property to local rates as well as poor rates.

X. The hereditaments to which the Poor Rate Acts are extended by this Act, and which are thus made rateable to the relief of the poor, shall be rateable to all local rates in like manner as if the Poor Rate Acts had always extended to such hereditaments.

Commencement of Act.

XI. This Act . . . shall come into operation on the sixth day of April one thousand eight hundred and seventy-five; and the expression "commencement of this Act" shall in this Act be construed accordingly.

As to provisions of Sanitary Acts

XII. The provisions of the Sanitary Acts, as defined by the Public Health Act, 1872, with respect to any special assessment

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Sect. 8. Note.

covenants to pay rent, &c., free and clear of all rates and taxes imposed by Parliament or otherwise, "free from all deductions whatsoever," and the tenant covenanted to pay all manner of taxes, &c., "which now are or shall at any time hereafter be imposed," it was held that the tenant might deduct half the rates from his rent under this section (*Chaloner* v. *Bolckow*, 3 App. Cas. 933; 47 L. J. M. C. 562; 39 L. T. (N. S.) 134).

Sect. 11. Note.

Repealed in part by the S. L. R. Act, 1893.

Sect. 12. Note.

The Public Health Act, 1872, is repealed by the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 343, except as to the metropolis; and is repealed as to the metropolis by the Public Health (London)

of wood lands for the purpose of any rate under those Acts shall be deemed to extend to and include land used for a plantation or a wood, or for the growth of saleable underwood, or for both such purposes, and made rateable by this Act to the poor rate.

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as defined by 35 & 36 Vict. c. 79.

XIII. Nothing in this Act shall apply to a mine of which the royalty or dues are for the time being wholly reserved in kind, or to the owner or occupier thereof.

Saving as to mine where dues payable in kind.

[Sect. 14. *Repeal of* 43 *Eliz. c.* 2, *as to saleable underwood:* Repealed by the S. L. R. Act, 1883.]

XV. In this Act, unless the context otherwise requires,—

Definitions of terms.

25 & 26 Vict. c. 103, s. 15.

The term "gross value" has the same meaning as gross estimated rental in the Union Assessment Committee Act, 1862:

The term "local rate" means any county rate, borough rate, highway rate, and other local rate leviable upon property rateable to the relief of the poor:

The term "valuation list" means, as regards any parish or place for which there is no valuation list, the poor rate:

The term "assessment committee" means, in relation to any parish or place where there is no assessment committee, the persons having power to make and assess the poor rate in such parish or place.

Act, 1891 (54 & 55 Vict. c. 76), s. 142. By sect. 313 of the Public Health Act, 1875, and by sect. 142 (7) of the Public Health (London) Act, 1891, when any enactment refers (*inter alia*) to the Sanitary Acts, such enactment shall be read as if it referred to the corresponding provisions respectively of those Acts.

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Note.

Provisions with regard to the special assessment of wood lands for rating purposes are contained in the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 211.

The Van Mining Company occupied and worked a lead mine under three leases: by one a royalty of one-fourteenth of the minerals obtained under it when ready for smelting and merchantable on the banks of the works was reserved to the lessor, or, at his option in lieu thereof, the full value in money; by the second and third the lessor, who was a different person from the lessor of the first lease, had a reservation for the time being in money only. The company were rated for the machinery and buildings occupied for the purposes of the mine, and the lessor of the first lease for the mine and the royalty or dues reserved in kind: and upon appeal it was held that this was a case within the exemption of this section that the previous rating clauses in this Act did not apply to it, and that therefore the rate was properly made (*Van Mining Co.* v. *Llanidloes*, 1 Ex. D. 310; 45 L. J. M. C. 138; 34 L. T. (N. S.) 692).

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Note.

VACCINATION ACT, 1874.

37 & 38 VICT. CHAP. 75.

An Act to explain the Vaccination Act, 1871.
[7th August, 1874.]

[Preamble recited the Vaccination Act, 1871 (34 & 35 Vict. c. 98), s. 5, and that doubts were entertained whether the Local Government Board were empowered thereunder to make rules, &c., with respect to the proceedings to be taken by guardians or their officers for the enforcement of the provisions of the Vaccination Acts, 1867 and 1871.]

Rules under 34 & 35 Vict. c. 98, to extend to proceedings and expenses.

[I.] The powers conferred by the said recited section shall be deemed to extend to and include the making of rules, orders, and regulations prescribing the duties of guardians and their officers in relation to the institution and conduct of the proceedings to be taken for enforcing the provisions of the said Acts, and the payment of the costs and expenses relating thereto, and rules, orders, and regulations under this Act shall be deemed to be made under the said section.

Short title.

II. This Act may be cited as "The Vaccination Act, 1874."

BIRTHS AND DEATHS REGISTRATION ACT, 1874.

37 & 38 VICT. CHAP. 88.

An Act to amend the Law relating to the Registration of Births and Deaths in England, and to consolidate the Law respecting the Registration of Births and Deaths at Sea. [7th August, 1874.]

[Only so much of this Act is here printed as relates directly or indirectly to the poor law or to poor law authorities.]

[*Preamble.*]

Registration of Births.

Information concerning birth to be given to registrar within forty-two days.

[I.] In the case of every child born alive it shall be the duty of the father and mother of the child, and in default of the father and mother, of the occupier of the house in which to his knowledge the child is born, and of each person present at the birth, and of the person having charge of the child, to give to the registrar, within forty-two days next after such birth, information of the particulars required to be registered

37 & 38 Vict. c. 88. Sect. 1.

Note. See definition of "occupier" and "house" in sect. 48, *post*. The master of a workhouse must give notice of the birth of any child in a workhouse in default of the father and mother.

concerning such birth, and in the presence of the registrar to sign the register. Sect. 1.

* * * * *

Superintendent Registrars and Registrars.

XXI. The Registrar-General, with the sanction of the Local Government Board, may from time to time, if it seem to them fit, alter the districts of registrars by the alteration of the boundaries of districts, by the formation of new districts, or by the union of districts, and may take or cause to be taken all measures which seem to them to be necessary for carrying such alteration into effect, and such alteration shall be made and measures taken accordingly. Alteration of registrars' districts.

Where any superintendent registrar or registrar is deprived of his office or part of his emolument by such alteration, formation, or union, or by the operation of any Act now in force, compensation may be awarded to him by the like authorities and in the like manner as compensation may be awarded under the Acts relating to the relief of the poor to any officer of a union who is deprived of his office by reason of a union being dissolved or altered, and the persons by whom and funds from which such compensation is to be paid shall be determined in like manner.

Every change in the district of a registrar shall be published by advertisement or otherwise as the Local Government Board direct as being in their opinion best calculated for giving information to all persons in the district.

Every district of a registrar, whether formed before or after the commencement of this Act, shall be termed a sub-district.

XXII. Sections ten and eleven of the Births and Deaths Registration Act, 1837, which relate to uniting any two or more unions, parishes, or places, or any two or more superintendent registrars' districts into one superintendent registrar's district, and to dividing a union, parish, or place, or a superintendent registrar's district into two or more superintendent registrars' districts, shall apply to a union with guardians acting under a local Act, and to a temporary superintendent registrar's district in like manner as it applies to a union with guardians acting under the Poor Law Amendment Act, 1834, and to a superintendent registrar's district which is not temporary. Extension of 7 Will. 4 & 1 Vict. c. 22, ss. 10 and 11, to all unions. 4 & 5 Will. 4, c. 76.

* * * * *

XXIII. The guardians of any union acting under a local Act shall be subject to the same obligation of providing and upholding register offices as guardians of a union acting under the Poor Law Amendment Act, 1834, are subject to under section nine of the principal Act. Providing of register offices and fireproof repositories. 4 & 5 Will. 4, c. 76.

The principal Act is 6 & 7 Will. 4, c. 86. Sect. 33. Note.

Sect. 33.

Every register office of a district formed before or after the commencement of this Act shall be provided, by the guardians, at the expense of their common fund, with a suitable fireproof repository or iron boxes for the safe custody of the registers, made according to the plan, and placed in the office approved by the Registrar-General.

Until a register office, as approved by the Registrar-General, is provided by the guardians in any superintendent registrar's district, the superintendent registrar shall appropriate some fit room, to be approved by the Registrar-General, as a temporary register office. Such guardians shall pay a reasonable rent for the said room out of their common fund to the superintendent registrar.

Each of united unions to contribute to expense of registration office.

7 Will. 4 & 1 Vict. c. 72.

XXXIV. Where any union, parish, or place is united to any other union, parish, or place under section ten of the Births and Deaths Registration Act, 1837, as amended by this Act, the guardians acting for each union, parish, or place so united as aforesaid shall contribute to the expense of providing and upholding a register office in proportion to the population of each such union, parish, or place, as ascertained by the last published census for the time being.

* * * * *

Interpretation.

XLVIII. In this Act, if not inconsistent with the context,—

The term "public institution" means a prison, lock-up, workhouse, lunatic asylum, hospital, and any prescribed public or charitable institution:

The term "house" includes a public institution as above defined:

The term "occupier" includes the governor, keeper, master, matron, superintendent, or other chief resident officer of every public institution, and where a house is let in separate apartments or lodgings includes any person residing in such house who is the person under whom such lodgings or separate apartments are immediately held, or his agent:

The term "relative" includes a relative by marriage:

The term "prescribed" means prescribed by regulations made from time to time in pursuance of section five of the principal Act or of this Act:

The term "appointed fee" means the fee specified in the second schedule to this Act:

The term "guardians" includes any body of persons performing the functions of guardians within the meaning of the Acts relating to the relief of the poor:

The term "union" means any union or incorporation of parishes under any general or local Act, and includes any single parish having guardians under any such Act:

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The term "common fund" means, in the case of a single parish, the fund out of which the expenses of the guardians of such parish are paid:

* * * * *

Construction and short title. 6 & 7 Will. 4, c. 86, 7 Will. 4 & 1 Vict. c. 22, 21 & 22 Vict. c. 25.

LII. This Act shall, so far as is consistent with the tenor thereof, be construed as one with so much as is unrepealed of the Acts mentioned in the third schedule to this Act; and the first of those Acts is in this Act referred to as the principal Act; and each of those Acts may be cited as "The Births and Deaths Registration Act" of the year in which it was passed; . . .

Short title.

LIII. This Act may be cited as "The Births and Deaths Registration Act, 1874."

* * * * *

METROPOLIS MANAGEMENT ACT, 1875.

38 & 39 VICT. CHAP. 33.

An Act to amend the Metropolis Management Acts.

[29th June, 1875.]

[*The preamble recited the Metropolis Management Act*, 1855 (18 & 19 *Vict. c.* 120), *ss.* 163, 164; *and the Valuation* (*Metropolis*) *Act*, 1869 (32 & 33 *Vict. c.* 67): Repealed by the S. L. R. Act, 1893.]

Metropolitan Board of Works to make abatement on assessment of parts of metropolis containing property exempt from sewers rate. 18 & 19 Vict. c. 120.

[I.] From and after the sixth day of April one thousand eight hundred and seventy-six the *Metropolitan Board of Works*, in every assessment made by them upon such parts of the metropolis as contain property wholly or partially exempt from sewers rate, and in the precepts issued for obtaining payment of the sums so assessed, shall make an allowance or abatement equal to the reduction or exemption which, under the one hundred and sixty-third and one hundred and sixty-fourth sections of the Metropolis Management Act, 1855, is required to be made in levying any rate for the purpose of meeting such precepts.

Totals of value of property so exempt to be inserted in valuation lists. 32 & 33 Vict. c. 67.

II. The overseers and assessment committees acting under the Valuation (Metropolis) Act, 1869, shall cause the totals of the gross and rateable value of the property so wholly or partially exempt from sewers rate, and the extent of such exemption, to be ascertained and inserted in the valuation lists which will come into force on the sixth day of April one thousand eight hundred and seventy-six, and in every valuation list which shall thereafter be made by them.

Sect. 1. Note.

For "Metropolitan Board of Works" now read "London County Council" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 40 (8)).

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Totals to be printed.

III. The said lists shall be sent by the assessment committees before the first day of November in each year to the clerk of the *managers of the metropolitan asylum district*, who shall print and send the said totals and extent of exemptions, with the other totals of gross and rateable value required to be printed and sent by the seventeenth section of the said Valuation (Metropolis) Act, 1869.

32 & 33 Vict. c. 67.

Appeal in cases of unfairness, &c.

32 & 33 Vict. c. 67.

IV. Any unfairness or incorrectness in the said totals and extent of exemptions may be appealed against in the manner provided for appealing against totals of gross or rateable value under section thirty-two of the Valuation (Metropolis) Act, 1869.

PUBLIC HEALTH ACT, 1875.

38 & 39 VICT. CHAP. 55.

An Act for consolidating and amending the Acts relating to Public Health in England. [11th August, 1875.]

[This Act has no connection with the administration of the poor law beyond the fact that the rural district councillors for parishes are the guardians for the parishes for which they were elected, and is outside the scope of this work. The sections here printed are, however, referred to or incorporated in certain Acts which do deal with the administration of the poor law, and the text of such sections is therefore included for the sake of reference. For the interpretation of such sections and the decisions thereon the reader should consult Lumley's "Public Health Act, 1875."]

PART I.

Preliminary.

Short title.

[I.] This Act may be cited as the Public Health Act, 1875.

Extent of Act.

II. This Act shall not extend to Scotland or Ireland, nor (save as by this Act is expressly provided) to the metropolis.

* * * * *

Definitions.

IV. In this Act, if not inconsistent with the context, the following words and expressions have the meanings herein-after respectively assigned to them; that is to say,

"Borough" means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and any Act amending the same:

38 & 39 Vict. c. 33.

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Note.

The lists are now required to be sent to the clerk of the London County Council (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 44).

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"The metropolis" means the city of London and all parishes and places mentioned in schedules (A.), (B.) and (C.) to the Metropolis Management Act, 1855:

"Local government district" means any area subject to the jurisdiction of a local board constituted in pursuance of the Local Government Acts before the passing of this Act, or in pursuance of this Act, and "local board" means any board so constituted:

"Improvement Act district" means any area for the time being subject to the jurisdiction of any improvement commissioners as herein-after defined:

"Improvement commissioners" means any commissioners, trustees or other persons invested by any local Act with powers of town government and rating:

"Parish" means a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed:

"Union" means a union of parishes incorporated or united for the relief or maintenance of the poor under any public or local Act of Parliament, and includes any parish subject to the jurisdiction of a separate board of guardians:

"Guardians" means any persons or body of persons by whom the relief of the poor is administered in any union:

"Person" includes any body of persons, whether corporate or unincorporate:

"Local authority" means urban sanitary authority and rural sanitary authority:

"Surveyor" includes any person appointed by a rural authority to perform any of the duties of surveyor under this Act:

"Lands" and "premises" include messuages, building lands, easements and hereditaments of any tenure:

"Owner" means the person for the time being receiving the rackrent of the lands or premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rackrent:

"Rackrent" means rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises; and the full net annual value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe commutation rent-charge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent:

"Street" includes any highway (not being a turnpike road), and any public bridge (not being a county bridge), and

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any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not:

"House" includes schools, also factories and other buildings in which *twenty* persons are employed *at one time:*

[The words in italics are repealed by the Factory Act, 1878 (41 & 42 Vict. c. 16), s. 107.]

"Drain" means any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed:

"Sewer" includes sewers and drains of every description, except drains to which the word "drain" interpreted as aforesaid applies, and except drains vested in or under the control of any authority having the management of roads and not being a local authority under this Act:

"Slaughter-house" includes the buildings and places commonly called slaughter-houses and knackers' yards, and any building or place used for slaughtering cattle, horses, or animals of any description for sale:

"Water company" means any person or body of persons corporate or unincorporate supplying or who may hereafter supply water for his or their own profit:

"Waterworks" includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines and all machinery, lands, buildings and things for supplying or used for supplying water, also the stock-in-trade of any water company:

"Bakehouse Regulation Act" means 26 & 27 Vict. c. 40 (Bakehouse Regulation Act, 1863):

[This Act is repealed by the Factory Act, 1878 (41 & 42 Vict. c. 16).]

"Artizans and Labourers Dwellings Act" means 31 & 32 Vict. c. 130 (Artizans and Labourers Dwellings Act, 1868):

[This Act is repealed and replaced by the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 90).]

"Baths and Wash-houses Acts" means 9 & 10 Vict. c. 74 (An Act to encourage the establishment of Public Baths and Wash-houses); 10 & 11 Vict. c. 61 (An Act to amend the Act for the establishment of Public Baths and Wash-houses):

[There must be now added to these the Baths and Wash-houses Acts, 1878 and 1882 (41 & 42 Vict. c. 14; 45 & 46 Vict. c. 30).]

"Labouring Classes Lodging Houses Acts" means 14 & 15 Vict. c. 34 (Labouring Classes Lodging Houses Act, 1851); 29 & 30 Vict. c. 28 (Labouring Classes Dwelling Houses Act, 1866); 30 & 31 Vict. c. 28 (Labouring Classes Dwelling Houses Act, 1867):

[These Acts are repealed and replaced by the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 90).]

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"Sanitary Acts" means all the above-mentioned Acts and the Acts mentioned in Part I. of schedule V. to this Act:

"Sanitary purposes" means any object or purposes of the Sanitary Acts:

"Court of quarter sessions" means the court of general or quarter sessions of the peace having jurisdiction over the whole or any part of the district or place in which the matter requiring the cognizance of general or quarter sessions arises:

"Court of summary jurisdiction" means any justice or justices of the peace, stipendiary or other magistrate or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to:

"Summary Jurisdiction Acts" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders," and any Act amending the same.

* * * * *

Description of rural districts and rural authorities.

IX. The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district (in this section called a rural union), with the exception of those portions (if any) of the area which are included in any urban district, shall be a rural district, and the guardians of the union shall form the rural authority of such district: *Provided that*—

(1) *An* ex-officio *guardian resident in any parish or part of a parish belonging to such union, which parish or part of a parish forms or is situated in an urban district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority, unless he is the owner or occupier of property situated in the rural district of a value sufficient to qualify him as an elective guardian for the union:*

(2) *An elective guardian of any parish belonging to such union, and forming or being wholly included within an urban*

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The words in this section printed in italics are repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.

Note.

Although the first part of the section is not repealed the guardians of the union do not now form the rural authority of the rural district. By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 24, the rural authority consists of persons elected as rural district councillors, who are also guardians for the various parishes for which they are elected, and these guardians, together with the guardians for the various urban parishes in the union, form the board of guardians for the union, which is a body now quite distinct from the rural district council.

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district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority :

(3) *Where part of a parish belonging to a rural union forms or is situated in an urban district, the Local Government Board may by order divide such parish into separate wards, and determine the number of guardians to be elected by such wards respectively, in such manner as to provide for the due representation of the part of the parish situated within the rural district ; but until such order has been made the guardian or guardians of such parish may act and vote as members of the rural authority in the same manner as if no part of such parish formed part of or was situated in an urban district.*

Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number [*from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for the union,*] and the persons so nominated shall be entitled to act and vote as members of the rural authority but not further or otherwise.

Subject to the provisions of this Act, all statutes, orders and legal provisions applicable to any board of guardians shall apply to them in their capacity of rural authority under this Act for purposes of this Act ; and it is hereby declared that the rural authority are the same body as the guardians of the union or parish for or within which such authority act.

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PART V.

GENERAL PROVISIONS.

Purchase of Lands.

* * * * *

Regulations as to purchase of land.

CLXXVI. With respect to the purchase of lands by a local authority for the purposes of this Act, the following regulations shall be observed ; (that is to say,)

(1) The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845 :

(2) The local authority, before putting in force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall

Publish once at the least in each of three consecutive weeks in the month of November, in some local

newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require; and shall further

Serve a notice in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands:

(3) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees and occupiers of lands who have assented, dissented or are neuter in respect of the taking such lands, or who have returned no answer to the notice; it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires:

(4) On the receipt of such petition and on due proof of the proper advertisements having been published and notices served, the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners, lessees and occupiers thereof:

(5) After the completion of such inquiry the Local Government Board may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the powers of the said Lands Clauses Consolidation Acts, with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the board may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner

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and on the person in which and on whom notices in respect of such lands are required to be served :

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given ; and any notices or orders by this section required to be served on a number of persons having any right in, over or on lands in common may be served on any three or more of such persons on behalf of all such persons.

* * * * *

Officers and Conduct of Business of Local Authorities.

Appointment of officers of urban authority.

CLXXXIX. Every urban authority shall from time to time appoint fit and proper persons to be medical officer of health, surveyor, inspector of nuisances, clerk, and treasurer : Provided that if any such authority is empowered by any other Act in force within their district to appoint any such officer, this enactment shall be deemed to be satisfied by the employment under this Act of the officer so appointed, with such additional remuneration as they think fit, and no second appointment shall be made under this Act. Every urban authority shall also appoint or employ such assistants, collectors, and other officers and servants as may be necessary and proper for the efficient execution of this Act, and may make regulations with respect to the duties and conduct of the officers and servants so appointed or employed.

Subject, in the case of officers any portion of whose salary is paid out of monies voted by Parliament, to the powers of the Local Government Board under this Act, the urban authority may pay to the officers and servants so appointed or employed such reasonable salaries, wages or allowances as the urban authority may think proper ; and, subject as aforesaid, every such officer and servant appointed under this Act shall be removable by the urban authority at their pleasure.

* * * * *

As to medical officer of health, &c.

CXCI. A person shall not be appointed medical officer of health under this Act unless he is a legally qualified medical practitioner ; and the Local Government Board shall have the same powers as it has in the case of a district medical officer of a union with regard to the qualification, appointment, duties, salary and tenure of office of a medical officer of health or other officer of a local authority, any portion of whose salary is paid out of monies voted by Parliament, and may by order prescribe the qualification and duties of other medical officers of health appointed under this Act.

The same person may, with the sanction of the Local Government Board, be appointed medical officer of health or inspector of nuisances for two or more districts, by the local authorities of such districts; and the Local Government Board shall by order prescribe the mode of such appointment, and the proportions in which the expenses of such appointment and the salary and charges of such officer shall be borne by such authorities.

Any district medical officer of a union may, with the sanction of the Local Government Board and subject to such conditions as the said board may prescribe, be appointed a medical officer of health; and a medical officer of health may exercise any of the powers with which an inspector of nuisances is invested by this Act.

In case of illness or incapacity of the medical officer of health a local authority may appoint and pay a deputy medical officer, subject to the approval of the Local Government Board.

* * * *

Meetings, &c. of urban authority not being the council of a borough.

CXCIX. Every urban authority (not being the council of a borough) shall hold an annual meeting, and other meetings for the transaction of business under this Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under this Act.

Meetings of local boards shall be held and the proceedings thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in schedule I. to this Act; and any improvement commissioners may, if they think fit, adopt all or any of such rules.

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PART VI.

RATING AND BORROWING POWERS, &c.

* * * * *

Expenses of Rural Authority.

Expenses of rural authority.

CCXXIX. The expenses incurred by a rural authority in the execution of this Act shall be divided into general expenses and special expenses.

General expenses (other than those chargeable on owners and occupiers under this Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by order of the Local Government Board to be special expenses.

Special expenses shall be the expenses of the construction, maintenance and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not

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defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

Where the rural authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any two or more contributory places within their district, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they think just, between such contributory places, and any expense so apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

The overseers of any contributory place, if aggrieved by any such appointment, may, within twenty-one days after notice has been given to them of the appointment, send or deliver a memorial to the Local Government Board stating their grounds of complaint, and the said board may make such order in the matter as to it may seem equitable, and the order so made shall be binding and conclusive on all parties concerned.

General expenses shall be payable out of a common fund to be raised out of the poor rate of the parishes in the district according to the rateable value of each contributory place in manner in this Act mentioned.

Special expenses shall be a separate charge on each contributory place.

The following areas situated in a rural district shall be contributory places for the purposes of this Act; that is to say,

(1) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district; and

(2) Every such special drainage district as aforesaid; and

(3) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district; and

(4) In the case of a parish a part of which is situated within an urban district, such portion of that parish as is not comprised within such urban district, or within any such special drainage district as aforesaid.

Mode of raising contributions in rural district.

CCXXX. For the purpose of obtaining payment from the several contributory places within their district of the sums to be contributed by them, the rural authority shall issue their

precept to the overseers of each such contributory place requiring such overseers to pay, within a time limited by the precept, the amount specified in such precept to the rural authority or to some person appointed by them, care being taken to issue separate precepts in respect of contributions for general expenses and special expenses, or to make such expenses respectively separate items in any precept including both classes of expenses.

Where a contributory place is part of a parish as defined by this Act, the overseers of such parish shall for the purposes of this Act be deemed to be the overseers of such contributory place, and where any part of a contributory place is part of a parish the overseers of such parish shall for the like purposes be deemed to be the overseers of such part of such contributory place.

The overseers shall comply with the requisitions of such precept by paying the contribution required in respect of general expenses out of the poor rate of their respective parishes, and with respect to special expenses by raising the contribution required by the levy (in the case of an entire parish on the whole of such parish, and in the case of a contributory place or part of a contributory place forming part of a parish, by the levy on such place, or such part thereof, exclusive of the rest of the parish) of a separate rate in the same manner as if it were a rate for the relief of the poor, with this exception; (namely,)

That the owner of any tithes, or of any tithe commutation rent-charge, or the occupier of any land used as arable, meadow or pasture ground only, or as woodlands, market gardens or nursery grounds, and the occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purpose of such rate, be assessed in respect of one-fourth part only of the rateable value thereof, or where no special assessment is made, shall pay in respect of the said property one-fourth part only of the rate in the pound payable in respect of houses and other property:

Provided that where the amount required by any precept or precepts from a contributory place in respect of special expenses is less than ten pounds, or is so small that a rate less than one penny in the pound would be required to raise the same, the overseers shall not assess and levy any special rate for the same, but shall pay the amount as if it formed part of the contribution required from them in respect of general expenses.

A separate rate under this section shall, as respects the powers of the overseers in relation to making, assessing and levying such rate, and as respects the appeal against such rate, and all other incidents thereof except the purposes to which it is

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applicable, and such exemption as aforesaid, and except the allowance of justices, which shall not be required, be subject to the same provisions as apply in law to a rate levied for the relief of the poor; and the overseers of a parish shall have the same powers of levying such separate rate in a contributory place or part of a contributory place forming part of their parish, as they would have if such contributory place or such part thereof formed the whole of their parish.

Where a contribution for general expenses is required from a contributory place or part of a contributory place which is part of a parish, the overseers shall from time to time levy such increase of rate from the contributory place or such part thereof as may be sufficient to recoup the parish for the sum it has paid on account of the contributory place or such part thereof in respect of general expenses under this Act, and carry the same to the general account of the parish, and such increase of rate shall be raised in such contributory place or part of a contributory place by an addition to the poor rate, or by a separate rate to be assessed, made, allowed, published, collected and levied in the same manner as a poor rate. The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect any separate rate made under this section, and receive out of such separate rate such remuneration for the additional duty as the overseers with the consent of the vestry may determine.

The overseers shall, at the expiration of their term of office, pay any surplus in their hands arising from any separate rate levied in pursuance of this Act, above the amount for which the rate was made, to the rural authority, or to such person as they may appoint, to the credit of the contributory place within which or within part of which such rate was made, and such surplus shall go in reduction of the next call that may be made on such contributory place or such part thereof for the purpose of defraying the expenses incurred by the rural authority.

Remedy for non-payment by overseers of amount required by precept of rural authority.

CCXXXI. If the amount required by any precept of a rural authority to be paid by the overseers of any parish is not paid in manner directed by such precept, and within the time therein specified for that purpose, the rural authority shall have the like remedy for recovery from the overseers of such amount as is not paid as guardians have for the time being for recovery from overseers of contributions of parishes, and for that purpose the precept of the rural authority requiring the payment shall be conclusive evidence of the amount thereof.

As to private improvement expenses.

CCXXXII. Whenever a rural authority have incurred or become liable to any expenses which by this Act are, or by such authority may be declared to be private improvement expenses, such authority may make and levy a private improvement rate in the same manner as private improvement rates may be made and levied by an urban authority; and all the

provisions of this Act applicable to private improvement rates leviable by an urban authority shall apply accordingly to any private improvement rate leviable by a rural authority. Sect. 232.

Borrowing Powers.

CCXXXIII. Any local authority may, with the sanction of the Local Government Board, for the purpose of defraying any costs, charges and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or of this Act, or for the purpose of discharging any loans contracted under the Sanitary Acts or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs, charges and expenses, or for discharging any such loans as aforesaid. Power to borrow on credit of rates.

An urban authority may borrow or re-borrow any such sums on the credit of any fund or all or any rates or rate out of which they are authorized to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or rates or rate.

A rural authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such authority, on the credit of any rate or rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund, rate or rates.

CCXXXIV. The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations; (namely,) Regulations as to exercise of borrowing powers.

(1) Money shall not be borrowed except for permanent works, (including under this expression any works of which the cost ought in the opinion of the Local Government Board to be spread over a term of years):

(2) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed:

(3) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said board:

(4) The money may be borrowed for such time, not exceeding sixty years, as the local authority, with the sanction of

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the Local Government Board, determine in each case; and, subject as aforesaid, the local authority shall either pay off the monies so borrowed by equal annual instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer bills or other Government securities, such sum as will with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the monies so borrowed within the period sanctioned:

(5) A local authority may at any time apply the whole or any part of the sinking fund set apart under this Act in or towards the discharge of the monies for the repayment of which the fund has been established: Provided that they pay into the fund in each year and accumulate until the whole of the monies borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied:

(6) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and shall in no case be extended beyond the period of sixty years from the date of the original loan.

Where any urban authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.

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Form of mortgage.

CCXXXVI. Every mortgage authorized to be made under this Act shall be by deed, truly stating the date, consideration and the time and place of payment, and shall be sealed with the common seal of the local authority, and may be made according to the form contained in schedule IV. to this Act, or to the like effect.

Register of mortgages.

CCXXXVII. There shall be kept at the office of the local authority a register of the mortgages on each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the

deed. Every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds. Sect. 237.

Transfer of mortgages.

CCXXXVIII. Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the consideration for the transfer; and such transfers may be according to the form contained in schedule IV. to this Act, or to the like effect.

There shall be kept at the office of the local authority a register of the transfers of mortgage charged on each rate, and within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the local authority, who shall, on payment of a sum not exceeding five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and until such entry is made the local authority shall not be in any manner responsible to the transferee.

On the registration of any transfer, the transferee, his executors or administrators shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby; and any transferee may in like manner transfer his estate and interest in any such mortgage; and no person except the last transferee, his executors or administrators shall be entitled to release or discharge any such mortgage or any money secured thereby.

If the clerk of the local authority wilfully neglects or refuses to make in the register any entry by this section required to be made, he shall be liable to a penalty not exceeding twenty pounds.

Receiver may be appointed in certain cases.

CCXXXIX. If at the expiration of six months from the time when any principal money or interest has become due on any mortgage of rates made under this Act, and after demand in writing, the same is not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to a court of summary jurisdiction; and such court may, after hearing the parties, appoint in writing under their hands and seals some person to collect and receive the whole or a competent part of the rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application, and of collection, are fully paid.

On such appointment being made all such rates, or such

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competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them:

Provided that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, monies collectively amounting to that sum.

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Local Government Board may invest rural authority with power of urban authority.

CCLXXVI. The Local Government Board may, on the application of the authority of any rural district, or of persons rated to the relief of the poor, the assessment of whose hereditaments amounts at the least to one-tenth of the net rateable value of such district, or of any contributory place therein, by order to be published in the *London Gazette* or in such other manner as the Local Government Board may direct, declare any provisions of this Act in force in an urban district to be in force in such rural district or contributory place, and may invest such authority with all or any of the powers, rights, duties, capacities, liabilities and obligations of an urban authority under this Act, and such investment may be made either unconditionally or subject to any conditions to be specified by the board as to the time, portion of the district, or manner during at and in which such powers, rights, duties, liabilities, capacities and obligations are to be exercised and attach;

Provided that an order of the Local Government Board made on the application of one-tenth of the persons rated to the relief of the poor in any contributory place shall not invest the rural authority with any new powers beyond the limits of such contributory place.

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PART IX.

LOCAL GOVERNMENT BOARD.

Inquiries by Board.

Power of board to direct inquiries.

CCXCIII. The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval or consent is required by this Act.

Orders as to costs of inquiries.

CCXCIV. The Local Government Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to the said board under this Act, and as to the parties

by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

Orders of board under this Act.

CCXCV. All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such a manner as that board may direct.

Powers of inspector of Local Government Board.

CCXCVI. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.

Provisional Orders by Board.

As to provisional orders made by Local Government Board.

CCXCVII. With respect to the provisional orders authorized to be made by the Local Government Board under this Act, the following enactments shall be made:—

(1) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates:

(2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections:

(3) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament:

(4) If while the bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the bill, so far as it relates to such order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills:

(5) Any Act confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act, and

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any Order in Council made in pursuance of any of the Sanitary Acts, may be repealed, altered or amended by any provisional order made by the Local Government Board and confirmed by Parliament:

(6) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the bill confirming the order is pending in either House of Parliament:

(7) The making of a provisional order shall be *primâ facie* evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with:

(8) Every Act confirming any such provisional order shall be deemed to be a public general Act.

Costs of provisional orders.

CCXCVIII. The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly; and if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs.

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SCHEDULE I.

RULES AS TO MEETINGS AND PROCEEDINGS.

(1) *Rules applicable to Local Boards.*

1. Every local board shall from time to time make regulations with respect to the summoning, notice, place, management and adjournment of their meetings, and generally with respect to the transaction and management of their business under this Act.

2. No business shall be transacted at any such meeting unless at least one-third of the full number of members be present thereat, subject to this qualification, that in no case shall a larger quorum than seven members be required.

3. Every local board shall from time to time at their annual meeting appoint one of their number to the chairman for one year at all meetings at which he is present.

4. If the chairman so appointed dies, resigns, or becomes

incapable of acting, another member shall be appointed to be chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and no longer.

5. If the chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as chairman thereat.

6. The names of the members present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question.

7. Every question at a meeting shall be decided by a majority of votes of the members present, and voting on that question.

8. In case of an equal division of votes the chairman shall have a second or casting vote.

9. The proceedings of a local board shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such board, or in the election or selection or qualification of any members thereof.

10. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, if purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

11. The annual meeting of a local board shall be held as soon as may be convenient after the fifteenth of April in each year.

12. The first meeting of a local board for a district constituted after the passing of this Act shall be held at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the board appoint; and the members shall appoint one of their number to be chairman at such meeting, and shall also appoint one of their number to be chairman for one year at all meetings at which he is present.

13. Nothing in these rules contained with respect to the appointment of chairman shall apply to the Oxford district, and in that district a chairman shall be appointed as heretofore.

(2) *Rules applicable to Committees of Local Authorities, other than Councils of Boroughs, and to Joint Boards.**

1. A [*committee or*] joint board may meet and adjourn as it thinks proper.

2. The quorum of a [*committee or*] joint board shall consist

* So much of this schedule as relates to committees is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.

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of such number of members as may be prescribed by the authority that appointed the [*committee or*] joint board, or, if no number is prescribed, of three members.

3. A [*committee or*] joint board may appoint a chairman of its meetings.

4. If no chairman is elected, or if the chairman elected is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of such meeting.

5. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question.

6. In case of an equal division of votes the chairman shall have a second or casting vote.

7. The proceedings of a [*committee or*] joint board shall not be invalidated by reason of any vacancy or vacancies amongst their members, or any defect in the mode of appointment of such [*committee or*] joint board or of any member thereof.

8. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

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LOCAL LOANS ACT, 1875.

38 & 39 VICT. CHAP. 83.

An Act to amend the Law relating to Securities for Loans contracted by Local Authorities. [13th August, 1875.]

WHEREAS it is expedient to amend the law relating to securities for loans contracted by local authorities:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

(1) *Preliminary.*

Short title.

1. This Act may be cited for all purposes as "The Local Loans Act, 1875."

II. This Act shall not extend to Scotland or Ireland. Sect. 2. Limits of Act.

[Sect. 3. *Commencement of Act:* Repealed by the S. L. R. Act (No. 2), 1893.]

IV. A local authority shall be deemed to borrow, subject to the provisions of this Act, whenever it raises a loan by the issue of debentures or debenture stock or annuity certificates, purporting to be created under its powers, or partly in one way and partly in another; subject to this proviso, that where a loan is directed to be raised by debentures or debenture stock or annuity certificates under this Act, the prescribed mode only shall be adopted. Definition of borrowing under Act.

(2) *Debentures.*

V. A debenture under this Act shall be an instrument taking effect as a deed, and charging the local rate or property in such debenture specified with payment, as in the debenture mentioned, of the principal sum and interest therein specified. Regulations as to debentures.

Where a debenture under this Act charges property other than the local rate, and it is intended that in default of payment of the principal sum due on such debenture, or of the interest thereon, the property is to be sold, a statement to that effect shall be inserted in the debenture.

The principal sum may be made payable to the bearer of the debenture, or to a person to be named therein, and his executors, administrators, or assigns.

A debenture in which the principal sum is made payable to the bearer shall be transferable by delivery.

A debenture in which the principal sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal debenture, and shall be transferable by writing in manner directed by the local authority.

There may be attached to a debenture under this Act, or be thereafter issued in respect thereof, or partly in one way and partly in the other, coupons making the interest as therein mentioned payable to the bearer of each coupon, or to the person named in each coupon or his order, or the interest on a debenture may be made payable to the owner for the time being of such debenture, or may be otherwise made payable in such manner as in the said debenture mentioned.

A coupon making the interest therein mentioned payable

See sect. 38, *post*, for definition of "local authority" and "prescribed." Sect. 4. Note.

See sect. 34 for definition of local "rate." Sect. 5. Note.

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to the person named therein or his order is in this Act referred to as a coupon payable to order.

A debenture under this Act shall not be issued for a less sum than the prescribed sum, or, where no sum is prescribed, than twenty pounds.

(3) *Debenture Stock.*

Regulations as to debenture stock.

VI. A debenture stock may be created and issued by a local authority having power to raise a loan or any part thereof by the issue of debenture stock. Such debenture stock shall be of a nominal amount, not exceeding the amount of money authorized to be raised by such stock, and shall, unless otherwise provided by the conditions of issue, be redeemable at par at the option of the local authority at such times and upon such conditions as the local authority may declare at the time of the issue thereof.

The title of any person to any share in debenture stock shall be evidenced by the entry in the register as in this Act mentioned of the name of such person as owner of such share.

Debenture stock shall bear such rate of interest, to be payable at such times as the local authority may declare at the time of issue of the stock.

Debenture stock and the interest thereon shall be a charge on the local rate or property specified at the time of the issue thereof, in the same manner as if it were a principal sum and interest charged thereon by deed.

Where debenture stock and the interest thereon is a charge on property other than a local rate, and it is intended that in default of the payment of the interest thereon, or for the purpose of raising the money required for the redemption of the stock, the property is to be sold, a declaration to that effect shall be made by the local authority at the time of the issue of the stock, and shall be deemed to form one of the conditions of such issue.

Debenture stock shall have all the incidents of personal estate, and shall, subject to the provisions of this Act, be transferable by writing in manner directed by the local authority.

The interest on any share of debenture stock shall be recoverable by the owner of such share in the same manner in all respects as if such interest were an annuity of like

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This Act does not itself give power to issue debenture stock: it only applies where under a special Act there is such a power.

For composition for stamp duty on the stock, &c., of any corporation, and on share warrants or stock certificates relating thereto, see Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 115; and see sects. 108, 109, for stamp duty on certificates to bearer.

amount secured to him by an annuity certificate under this Act.

The owner of any share in debenture stock shall not be entitled to require payment of the nominal amount of stock held by him, except at the time and upon the conditions declared by the local authority at the time of the issue of such stock.

The conditions of issue of debenture stock shall be declared by the local authority at the time of such issue, and a printed copy of such conditions shall be supplied to every owner of debenture stock requiring the same, and shall be entered in the register of such stock.

The local authority may, if it thinks fit, on the application of the owner of any share in debenture stock, grant to him a certificate of title to his share in such stock, or any part of such share, with coupons attached entitling the bearer of the coupons to the interest on the share or part of a share specified in such certificate.

A certificate of title to a share in debenture stock under this section (in this Act called a stock certificate to bearer) shall entitle the bearer to the stock therein described, and to the interest thereon, and shall be transferable by delivery.

Any share in stock in respect of which a stock certificate to bearer has been issued, shall, so long as such certificate is outstanding, cease to be dealt with through the medium of the register.

Debenture stock, in respect of which a stock certificate to bearer has not been issued, is in this Act referred to as nominal debenture stock.

(4) *Annuity Certificates.*

Regulations as to annuity certificates.

VII. An annuity certificate under this Act shall be an instrument taking effect as a deed, and charging the local rate or property in such certificate specified with payment, as in the certificate mentioned, of the annual sum therein specified.

Where an annuity certificate under this Act charges property other than the local rate, and it is intended that in default of payment of the annual sum secured by such annuity certificate, or of some part thereof, the property is to be sold, a statement to that effect shall be inserted in the annuity certificate.

The annual sum may be made payable to the bearer of the certificate or to a person to be named therein, his executors, administrators, or assigns.

An annuity certificate in which the annual sum is made payable to the bearer shall be transferable by delivery.

An annuity certificate in which the annual sum is made

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payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal annuity certificate, and shall be transferable by writing in manner directed by the local authority.

An annuity certificate under this Act shall not be issued for a less annual sum than the prescribed sum, or, where no sum is prescribed, than three pounds.

(5) *Priority of Loans.*

Priority of loans.

VIII. All sums for the time being due or authorized to be raised on or in respect of any securities issued in respect of the same loan by a local authority under this Act shall be paid without any preference the one over the other by reason of the priority of date of any of such securities.

Where more than one loan has been raised under this Act by the same local authority, the sums for the time being due or authorized to be raised on or in respect of any securities issued in respect of each loan shall take priority according to the date of such loan.

Where any sum of money is authorized to be borrowed in manner provided by this Act, such sum may, unless it is otherwise prescribed, be raised under this Act as one loan or several loans, as may be deemed most convenient by the borrowing authority, so that the aggregate amount authorized to be borrowed be not exceeded.

The date of each loan shall, with a view to the priority of the loan and to the period within which such loan is to be discharged, and for the other purposes of this Act, so far as relates to that period, be fixed by the local authority, and may be so fixed irrespectively of the dates of the particular securities issued in respect of such loan, so that the period within which the loan is required to be discharged be not exceeded.

(6) *Notice of Trusts.*

Notice of trust not receivable.

IX. No notice of any trust, expressed, implied, or constructive, shall be received by the local authority, or by any registrar or officer of the local authority, in relation to any security issued by such authority under this Act.

Owners of securities not responsible for acts of local authority.

X. A person advancing any money to a local authority and receiving in consideration of such advance any security under this Act, shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

Remedy by *mandamus* for non-payment of money.

(7) *Remedy for Non-payment.*

XI. The local authority shall pay or raise all sums for the time being due or authorized to be raised on or in respect of

any security issued by them under this Act, and if default is made in payment of any sum so due, such sum shall be deemed to be a specialty debt due to the person entitled thereto from the local authority of such a nature that a *mandamus* will be granted to enforce the payment thereof; and an action may be brought accordingly, in which a *mandamus* may be claimed.

Remedy by appointment of receiver for non-payment of money.

XII. Where a local authority makes default for a period of twenty-one days in paying an amount of not less than five hundred pounds (whether in one sum or separate sums) for the time being due on or in respect of any security issued under this Act, the persons entitled to the said amount, or any of such persons, may, instead of or in addition to bringing an action or actions, apply to the county court for the appointment of a receiver, and any receiver so appointed (subject to any direction which may be given by the court) shall from time to time raise as herein-after mentioned, by or out of the local rate or property charged, sufficient money to pay the amount the payment of which is so in default, and all sums due while he is receiver on or in respect of any such security, together with all costs, charges, and expenses incurred in or about the appointment of such receiver and the execution of his duties under this section, including a proper remuneration for his trouble, and shall render to the defaulting authority the balance, if any, remaining in his hands after making the said payments.

Where the amount so due or authorized to be raised is charged on the local rate, the receiver may raise the money he is authorized to raise under this section by means of the local rate, and for that purpose shall have the same power as the defaulting authority of levying the local rate, and the receiver shall have such access to and use of the documents of the defaulting authority relative to the local rate as he may require.

When the amount so due or authorized to be raised is charged on any property, other than the local rate, the receiver may raise the sum which he is authorized to raise under this section by receipt of the rents and profits of the property, and if the security involves a power of sale, as in this Act mentioned, by sale of the property in such manner and subject to such conditions of sale and otherwise as the court may direct.

A county court may appoint a receiver under this section with respect to any local rate levied, or any property situate wholly or partly within the jurisdiction of such court, and may remove such receiver and appoint another in his stead, and so from time to time; and may make such orders and give such directions as to the powers and duties of the receiver, and otherwise as to the disposal of the monies received by him, as may be thought fit for carrying this section into effect.

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(8) *Discharge of Loan.*

Loan borrowed to be discharged within prescribed period.

XIII. Every loan borrowed in manner provided by this Act shall be discharged within the prescribed period from the date thereof, and if no period is prescribed, within the period of twenty years from the date thereof, which period of twenty years shall for the purposes of this Act be included under the term "prescribed period," and such discharge shall be secured by one or more of the following methods; that is to say:—

By the issue of annuity certificates limited to expire within the prescribed period; or,

By the issue of debentures made payable in such a manner that in each year such number of debentures will become due and be paid off as will secure the repayment of the whole sum secured by such debentures by equal annual instalments, extending over the whole of the prescribed period, or over a less time than the prescribed period; or,

By the annual appropriation, as in this Act mentioned, of a fixed sum to be discharged of a certain portion of such loan; or,

Where a sinking fund is prescribed, but not otherwise, by the establishment of a sinking fund and the application thereof in manner in this Act mentioned.

Discharge of loan by appropriation of annual sum.

XIV. Where a fixed annual sum is appropriated to the discharge of a loan, or part of a loan, the local authority shall raise in every year an equal sum of money of such amount as will, at or before the expiration of the prescribed period, pay off the whole of such loan or part of a loan, and the interest thereon. The local authority shall in each year pay out of such fixed sum the interest due on the loan or part of a loan during the current year, and appropriate the residue of such sum, in the case of money borrowed on debentures, to the payment off of a corresponding amount of the principal sum secured by such debentures, and in the case of money borrowed by the issue of debenture stock to the redemption of a corresponding amount of such stock.

The debentures or portion of debenture stock to be paid off in every year shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged. Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lot shall be drawn in presence of the local authority, and any owners of debentures or debenture stock who choose to be present; the local authority shall cause

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Sect. 13. Note.

The words in italics are repealed by implication by the Local Loans Sinking Funds Act, 1885 (48 & 49 Vict. c. 30), s. 4.

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not less than one month's previous notice of the time and place at which lots are to be drawn to be given by advertisement, published once at the least in each of four successive weeks in some newspaper circulating in the district within which the local authority has jurisdiction.

Any fractional sum remaining of such residue as aforesaid, after payment of the debentures or debenture stock, payable as aforesaid, shall be carried to the credit of the annual sum to be raised in the ensuing year. All expenses incurred by the local authority in respect of any drawings by lot or otherwise in respect of the discharge of a loan shall be paid out of the current revenue of the local authority.

Discharge of loan by sinking fund.

XV. *Where a sinking fund is prescribed for any loan or part of a loan*, the local authority shall create a sinking fund as herein-after mentioned; that is to say:—

(1) Such equal yearly or half-yearly sums shall be paid into the sinking fund in each year as, being accumulated at compound interest at the prescribed rate, or if no rate is prescribed, at such rate as in the opinion of the local authority, (regard being had to the securities in which they are authorized to make investments,) will at the expiration of some period not longer than the prescribed period, be sufficient after payment of all expenses, to discharge such loan or part of a loan: and,

(2) The first of such payments shall be made within one year from the date of the loan; and,

(3) All sums paid into the sinking fund shall be, as soon as may be, invested by the local authority in the prescribed manner, and if no manner is prescribed, or if a manner having been prescribed, the Local Government Board shall assent, in securities in which trustees are by law for the time being authorized to invest, or in debentures, debenture stock, or annuity certificates issued under this Act, and any such investments may be from time to time varied or transposed, and all dividends and other annual sums received in respect of such investments shall, as soon as may

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The words in italics are repealed by implication by the Local Loans Sinking Funds Act, 1885 (48 & 49 Vict. c. 30), s. 4.

Note.

By the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 1 (2), in the case of loans raised by guardians or managers under sect. 2 of the Poor Law Act, 1889 (52 & 53 Vict. c. 56), the sinking fund is to be set apart, invested and applied in accordance with the Local Loans Act, 1875, and the Acts amending the same, and for the purposes of such application the prescribed rate shall be a rate not exceeding three per cent. per annum; provided that the guardians or managers shall not invest in their own securities.

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be after they are received, be paid into the sinking fund and invested by the local authority in like manner; and,

(4) The local authority may from time to time apply the sinking fund, or any part thereof, in or towards the discharge of the loan or part of a loan for which it was created, and until such loan or part is wholly discharged shall not apply the same for any other purpose:

(5) The debentures or portion of debenture stock, to the payment of which such sinking fund is for the time being applicable, shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged. Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lots shall be drawn and notice shall be given in manner herein-before in this Act mentioned:

(6) Any surplus of the sinking fund remaining after the discharge of the loan or part of a loan for the discharge of which it was created, shall be paid into some other sinking fund under the control of the local authority, or if there is no such fund shall be applied to any purpose to which such loan is applicable, or otherwise, as the local authority may, with the assent of the Local Government Board, think expedient:

(7) Where any part of the sinking fund is invested in any securities of the local authority, or is applied in paying off any part of the loan before the prescribed period, the interest which would otherwise be payable on such securities or on such part of the loan shall be paid into the sinking fund and invested in manner provided by this Act:

(8) If the annual income of the sinking fund is not less than the annual interest payable on so much of the loan or part of the loan in respect of which it was created as remains undischarged, the equal annual sums required by this section to be paid into the sinking fund may cease to be so paid.

Annual return as to sinking fund.

XVI. Where a sinking fund is created for the purpose of discharging any loan or part of a loan the local authority shall, until such loan or part of a loan is discharged, within twenty-one days after the expiration of each year, transmit to the

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Note.

For the prescribed form of return under this section, see General Order dated February 27th, 1875.

Local Government Board a return in such form and verified in such manner as the board from time to time directs, showing the amount which has been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the purposes to which any portion of the sinking fund has been applied during the same period, and the total amount (if any) remaining invested at the end of the year. If it appears to the Local Government Board, by such return or otherwise, that the local authority have failed to comply with the provisions of this Act with respect to the sinking fund, that board may, if they think fit and after hearing the local authority, if desirous to be heard, by order direct that the sum in respect of which default has been made is to be raised and invested or applied as part of the sinking fund, and any such order may be enforced by *mandamus*. Sect. 16.

SUPPLEMENTARY PROVISIONS.

(1) *As to Coupons.*

Temporary issue of coupons.

XVII. Coupons in respect of any debenture or stock certificate to bearer under this Act may be issued comprising the interest payable during the whole period of years for which the debenture or stock certificate is in force, or any less period, and at the expiration of any such less period fresh coupons may be issued in respect of the debenture or stock certificate, or such debenture or stock certificate may be exchanged for another debenture or stock certificate with coupons for a further period.

Indorsement and crossing of coupons.

XVIII. A coupon payable to order, which when presented for payment purports to be indorsed by the person named therein, shall be a sufficient authority to the person paying the money to pay the amount due in respect of such coupon to the bearer thereof, and it shall not be incumbent on the person paying such coupon to prove that such indorsement or any subsequent indorsement was made by or under the direction or authority of the person who is named in the coupon, or to whom the coupon was made payable by any indorsor.

Where a coupon bears across its face an addition in written, printed or stamped letters of the name of any banker or of the words "and company" in full or abbreviated, between two transverse lines, such addition shall be deemed to be a material part of the coupon, and have the force of a direction to the person by whom such coupon is to be paid that the same is to be paid only to or through the banker named, or if none is so named, to or through some banker, and the same shall be payable only to or through the banker named or some banker.

Coupons issued in respect of a

XIX. Any coupons issued in respect of any debenture or stock certificate to bearer under this Act shall for the purpose

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of the Acts relating to stamp duties be deemed to have been attached to and issued with such security.

security are exempt from stamp duty as if attached thereto.

(2) *As to Stock Certificates.*

Conversion into nominal debenture stock of stock in certificate to bearer.

XX. The bearer of a stock certificate to bearer may, on delivery to the local authority of his certificate and of all unpaid coupons belonging thereto, require the local authority to enter him in the register of the local authority as an owner of the share of stock described in the stock certificate to bearer, and thereupon that stock shall become nominal debenture stock and the interest thereon shall be payable as if no stock certificate to bearer had been issued in respect of that share of stock.

[Sect. 21. *Trustee not to apply for stock certificate to bearer:* Repealed by the Trustee Act, 1893 (56 & 57 Vict. c. 53); and see sect. 7 of that Act for the substituted provisions.]

(3) *As to Execution and Supply of Securities.*

Execution and supply of securities.

XXII. Every debenture, stock certificate to bearer, and annuity certificate under this Act shall be deemed to be well executed if under the common seal of the local authority, where that authority is a body corporate, and if signed by two or more members of the local authority, where the local authority is not a body corporate, or if otherwise executed in such manner as the Local Government Board may direct on the application of any local authority, whether corporate or unincorporate.

The Commissioners of Inland Revenue may, when required by any local authority, and on payment of such sum as may, with the sanction of the Treasury, be agreed upon, supply such authority with debentures, stock certificates to bearer, coupons and annuity certificates under this Act in such form and of such materials as the local authority may direct.

(4) *As to Register of Nominal Securities.*

Register of nominal securities.

XXIII. A local authority issuing nominal debentures, nominal debenture stock, or nominal annuity certificates under this Act, shall cause a register of such securities to be kept in one or more book or books, and there shall be entered in such register—

(1) The names and addresses and the descriptions of the owners for the time being of every such security, with a statement of the securities held by each person registered, and

(2) The date at which the name of any person was entered in the register in respect of any such security.

The register under this section shall be evidence of any matters by this Act directed or authorized to be inserted therein.

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Inspection of register.

XXIV. Any person may inspect the register at any reasonable time upon payment of such fee not exceeding one shilling as may be fixed by the local authority, and shall be entitled to obtain from the registrar, copies or extracts certified by him to be true copies or extracts of such register, upon payment of such fee not exceeding two shillings and sixpence, and twopence for every folio of seventy-two words, as the local authority may from time to time fix, and any copy or extract so certified shall be admissible in evidence.

Rectification of register.

XXV. If the name of any person is without sufficient cause entered in or omitted from the register, or if default is made or unnecessary delay takes place in making any entry in such register, the person aggrieved or the local authority may apply to the court for an order that the register may be rectified.

The court may either refuse the application with or without costs to be paid by the applicant, or may, if satisfied of the justice of the case, whether there has or has not been any default on the part of the registrar, make an order for the rectification of the register, and make such order as to the payment of the costs of the application or of damages to the person aggrieved as to the court may seem just.

The court may, in any proceeding under this section, decide any question relating to the title of any party to such proceeding to have his name entered in or omitted from the register, and generally any question which it may be necessary or expedient to decide for the rectification of the register.

The court for the purposes of this section means any of Her Majesty's superior courts of law or equity, or any court to which the jurisdiction of such courts may be transferred, and where the value of any security or securities to which the application relates does not exceed fifty pounds shall include a county court, and the jurisdiction by this Act given to a superior court may be exercised in a summary manner by any judge or judges of such court sitting in chambers or otherwise.

(5) *As to Loans under Official Sanction.*

Permissive issue of securities under official sanction.

XXVI. Any local authority about to raise a loan by the issue of any securities under this Act may apply to the Local Government Board to authorize the issue of such securities under official sanction.

The Local Government Board, before granting their official sanction to such issue, shall require the local authority to furnish in such form, and with such particulars, and supported by such evidence as the Local Government Board may require, such returns of the financial condition of such authority and borrowing powers of such authority and of the indebtedness of such authority, whether incurred before or after the passing of this Act, and such other particulars as will enable the Local

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Government Board to ascertain the facts required by this section to be stated in relation to such issue, and the Local Government Board may make such examination or inquiries for ascertaining the said matters and the accuracy of such returns as they may think expedient, and they shall not give their sanction unless they are satisfied with the information given and the result of the inquiries made.

The issue of any securities under official sanction shall be authenticated by an official stamp on such securities or otherwise as the Local Government Board may from time to time direct.

The sanction of the Local Government Board given in respect of any securities shall be conclusive evidence that the local authority by whom such securities may be issued had power to issue the same, and that the same have been duly issued, and are as to form and otherwise in conformity with this Act.

The owner of any security issued under official sanction shall on request made by him to the Local Government Board be furnished with a statement of the following particulars; that is to say:—

Where a security is charged on a rate, of the rateable value, at the date of the issue of such security, of the property subject to the rate, and where the security is a charge on property, of the estimated value of such property; also of

The relative priority of the loan, in respect of which such security is issued, and of the other loans (if any) of the borrowing authority;

and such statement shall be evidence of the particulars therein stated.

(6) *As to Investments on Loans under Act.*

[Sect. 27. *Power for trustees to invest in loans under Act:* Repealed by the Trustee Act, 1893 (56 & 57 Vict. c. 53); and see sect. 4 (3) of that Act for the substituted provisions.]

Power for Public Works Loan Commissioners to take securities under Act.

XXVIII. When the Public Works Loan Commissioners are authorized to grant any loan to a local authority under any Act, passed either before or after the passing of this Act, and are satisfied with the sufficiency of the rates or other property on which such loan is charged to defray the loan, they may, notwithstanding anything contained in any other Act of Parliament, take debentures, debenture stock, or annuity certificates under this Act as a security for such loan.

(7) *As to General Rules.*

Application of rules in schedule.

XXIX. The general rules in the schedule to this Act with respect to the transfer and transmission of nominal securities shall have the same force as if they were enacted in the body of this Act.

Power to make general rules.

XXX. The local authority may from time to time, with the consent of the Local Government Board, make, and when made, add to, rescind, or alter, such rules as they think fit with respect to the following matters :—

(1) The issue of coupons, the registry of securities, the mode of transferring securities not transferable by delivery, the fees, if any, to be charged in respect of registry and otherwise in respect of any security issued by them under this Act; and,

(2) With respect to any matter or thing required for the purposes of carrying into effect this Act, and not inconsistent therewith.

The local authority may also by such rules as aforesaid add to, rescind, or alter any of the rules in the schedule hereto.

Any general rules made by the local authority in pursuance of this section shall, so far as they are consistent with this Act, have the same force as if they were enacted therein.

Provided, that any rules made, added to, rescinded, or altered in pursuance of this section shall not affect any securities issued in respect of any loan the date of which is prior to the date of such making, addition, rescission, or alteration.

(8) *As to Borrowing.*

Borrowing and re-borrowing by local authorities.

XXXI. Any local authority, notwithstanding any provision in any other Act of Parliament passed before the passing of this Act, may, if it thinks fit, borrow in manner provided by this Act any loan which it is authorized to borrow.

Any local authority may from time to time in like manner re-borrow money for the purpose of discharging any loan lawfully contracted by them either before or after the passing of this Act; provided that the time for repayment of any money so borrowed shall not be extended beyond the unexpired portion of the term for which the original loan was contracted, unless with the sanction of the Local Government Board, and in no case shall be extended beyond the prescribed period.

(9) *As to Forgery and Loss of Securities.*

Forgery of securities.

XXXII. For the purposes of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, intituled "An Act to consolidate and amend the Statute Law of England relating to Indictable Offences by Forgery," debenture stock under this Act shall be deemed to be capital stock of a body corporate, and any other security issued in pursuance of this Act shall be considered to be a writing obligatory, and any coupon bearing across its face an addition in written, printed, or stamped

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letters of the name of any banker, or of the words "and company" in full or abbreviated, between two transverse lines, shall be deemed to be a cheque or draft on a banker.

Loss of securities.

XXXIII. If any security issued under this Act is lost, mislaid, or destroyed, the local authority shall, on such indemnity being given as they may require, and on payment of the expense of the issue, issue a fresh security in the place of the security so lost, mislaid, or destroyed.

(10) *Definitions.*

Definitions.

XXXIV. For the purposes of this Act—

"Prescribed" means prescribed by any Act passed either before or after the passing of this Act authorizing a local authority to borrow money:

"Local authority" means the justices of any county, liberty, riding, parts, or division of a county in general or quarter sessions assembled, the council of any municipal borough, also any authority whatsoever having power to levy a rate, as in this Act defined, also any prescribed authority.

"Municipal borough" means any borough for the time being subject to the Act of the *session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of Municipal Corporations in England and Wales," and any Acts amending the same:*

[For the words in italics substitute "45 & 46 Vict. c. 50." See sect. 242 (1) of that Act.]

A "rate" means a rate the proceeds of which are applicable to public local purposes and leviable on the basis of an assessment in respect of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other document requiring payment from some authority or officer, is or can be ultimately raised out of a rate, and the levy of a rate includes the issue and enforcement of any such precept, certificate, or document as aforesaid, and expressions relating to the levy and the assessment and making of a rate shall be construed accordingly:

[This definition is adopted in the Local Authorities Expenses Act, 1887 (50 & 51 Vict. c. 72).]

"Local rate" means any rate as before defined which a local authority have power to levy or charge by way of mortgage or otherwise:

"Security" means any debenture, debenture stock, annuity certificate, coupon, or stock certificate to bearer issued under this Act:

"Person" includes a body of persons corporate or unincorporate: Sect. 34.

"Executors and administrators" includes successors.

(11) *Repeal and consequential Enactment.*

[Sect. 35. *Repeal of* 36 & 37 *Vict. c.* 35: Repealed by the S. L. R. Act, 1883.]

Incorporation of county authority for purposes of Act.

XXXVI. The justices of any county, liberty, riding, parts, or division of a county in general or quarter sessions assembled, issuing any securities under this Act, shall, so far as relates to such securities, be deemed to be incorporated by the name of the justices of the county, liberty, riding, parts, or division of the county to which they belong, or by any other name by which such justices are ordinarily known, or by which they granted the said securities, and may sue and be sued in any action or other legal proceeding relating thereto by such corporate name.

SCHEDULE.

GENERAL RULES.

Transfer of Nominal Securities.

(1) A number of persons, not exceeding such number as may from time to time be directed by the local authority, may be registered as joint owners of the same nominal security, with right of survivorship between them.

(2) Unless otherwise directed by a general rule of the local authority, the instrument of transfer of any nominal security issued by a local authority shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain owner of such security until the name of the transferee is entered in the register in respect thereof.

(3) The transfer books of nominal securities may be closed at such times, not exceeding twice in each year, and not exceeding fourteen days at each time of closing, as the local authority may direct.

Transmission of Nominal Securities.

(4) The executors or administrators of a deceased owner of a nominal security shall be the only persons recognized by the local authority as having any title to such security.

(5) Any person becoming entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage of any female owner, may be registered as owner upon such evidence being produced as may from time to time be required by the local authority.

Schedule.

(6) Unless otherwise directed by a rule of the local authority, any person who has become entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage of any female owner, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such security.

(7) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such security.

(8) The instrument of transfer shall be presented to the local authority, accompanied with such evidence as the local authority may require to prove the title of the transferor, and thereupon the local authority shall register the transferee as owner.

(9) In the construction of this schedule the term "nominal security" means any nominal debenture, nominal debenture stock, or nominal annuity certificate.

PUBLIC WORKS LOANS ACT, 1875.

38 & 39 VICT. CHAP. 89.

An Act to consolidate with Amendments the Acts relating to Loans for Public Works. [13th August, 1875.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

I. This Act may be cited as the "Public Works Loans Act, 1875."

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Extent of Act.

III. This Act shall extend to the Isle of Man.

[Sects. 4—8 deal with the constitution, officers, &c., of the Loan Commissioners.]

Objects, Terms, and Duration of Loan.

Loans for public works.

IX. The Loan Commissioners may, if they think it expedient, from time to time, in manner mentioned in this Act, make loans for the purpose of any of the works mentioned in the first schedule to this Act, to any person having power under an Act of Parliament or otherwise to borrow for such purpose.

The Loan Commissioners in considering the propriety of

granting a loan shall have regard to the sufficiency of the security for its repayment, and, subject to the provisions of any special Act, shall determine whether the work for which the loan is asked would be such a benefit to the public as to justify a loan out of public money, having regard to the amount of money placed at their disposal by Parliament. Sect. 9.

X. Every loan granted under this Act shall bear interest at a rate not less than the rate authorized by a special Act relating to such loan, or if no rate be so authorized, not less than *five per cent.* per annum; provided that when the aggregate amount of principal monies due by any harbour authority to the commissioners under "The Harbours and Passing Tolls, &c. Act, 1861," exceeds one hundred thousand pounds, the rate of interest on such excess shall be three and a half per cent., or such higher rate, not exceeding five per cent., as may in the judgment of the Treasury be necessary to enable the loan to be made without loss to the Exchequer. Interest on loan.

XI. Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise) within a period from the date of the actual advance of such loan, not exceeding the period authorized by a special Act relating to such loan, or if no period be so authorized not exceeding *twenty* years. Term of years for repayment of loan.

Where a loan has been granted repayable within a period less than the full period allowed by the foregoing provisions of this section, the Loan Commissioners, if the repayment of the loan with interest is in their opinion sufficiently secured by such security as is required by this Act, and if they think fit, may extend the period for the repayment of such loan to a period not exceeding the said full period from the date of the advance of such loan.

Where no period is authorized by a special Act relating to the loan, the Treasury, on the recommendation of the Loan Commissioners, stating special circumstances, may either before or after the grant of the loan, extend the period within which the loan is to be repaid to such period as may be recommended by the Loan Commissioners.

The Loan Commissioners in considering whether the period for the repayment of a loan should or should not be the said full period, and the Loan Commissioners and the Treasury in

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Sect. 10. Note. By the Public Works Loans Act, 1892 (55 & 56 Vict. c. 61), s. 2, "four per cent." is substituted for "five per cent." in this section.

Sect. 11. Note. By the Public Works Loans Act, 1898 (61 & 62 Vict. c. 54), s. 5, the word "thirty" is substituted for the word "twenty" in this section.

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considering whether the period should be extended as aforesaid, shall have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by such work.

The first instalment for the repayment of every loan shall be made payable within a period not exceeding five years from the date of the advance of such loan.

Security for loans.

XII. The Loan Commissioners before advancing any money on account of a loan shall take security for the repayment of the loan with the interest, consisting of the security authorized by the special Act relating to the loan, or if none is so authorized, of a mortgage of property or of a rate, or of both property and a rate, and (save as herein-after mentioned) of personal security.

The Loan Commissioners may, if they think fit, dispense with personal security in any case in which in their opinion the mortgaged property or rate is sufficient security for the payment of the principal and interest of the loan within the stipulated period.

Funds for Loans.

[Sect. 13. Repealed by 45 & 46 Vict. c. 62, s. 9.]

[Sect. 14. Repealed by 50 & 51 Vict. c. 16.]

XV. . . . The annuities created in pursuance of this section, and the principal monies borrowed in pursuance of this section (otherwise than by the issue of Exchequer bonds), and all interest from time to time due thereon, or on Exchequer bonds issued under this section (not exceeding the rate of five per cent. per annum) shall be charged upon and be payable out of the Consolidated Fund, or out of the growing produce thereof, at such times in each year as may be fixed by the Treasury.

The principal of any Exchequer bonds issued under this section shall be paid out of monies provided by Parliament. . . .

The said annuities shall, in manner directed by the warrant, be consolidated in the said books, if terminable, with annuities payable at the same date, and, if permanent, with annuities at the same rate of interest, and payable at the same date, and shall be transferable in the said books in like manner as the annuities with which they are consolidated, and shall be subject to the enactments relating to those annuities so far as is consistent with the tenor of those enactments.

[Sects. 16, 17. Repealed by 50 & 51 Vict. c. 16.]

Sect. 15. Note.

Portions of this section are repealed by 50 & 51 Vict. c. 16. They authorized the Treasury to borrow for the purpose of raising money for loans, if so directed by the special Act, by annuities or Exchequer bills or bonds.

Recovery of Loans.

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Charge on property and priority of loan by the commissioners.

XVIII. Where a loan is granted by the Loan Commissioners on the security of a mortgage of any property (whether with or without any other security), the property from and after the date of the mortgage shall be charged with the payment to the use of Her Majesty of the loan with interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, over every other debt, mortgage, or charge whatsoever affecting the property, except any loan due to any creditor not assenting to such priority which has been advanced in good faith before the loan advanced by the commissioners and secured by a mortgage of the property executed to a person who is a *bonâ fide* creditor to the repayment thereof with interest.

Provided that if there is more than one such creditor and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of such creditors, in such case the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the loan granted by the commissioners and to the said charge thereof, and to the security for the same.

Nothing in any special Act, and no rule of law or custom shall affect the priority given by this section, except so far as the special Act negative such priority in terms expressly referring to this Act.

Charges on rate of loan and loan not to be repudiated by locality having had the benefit of it.

XIX. Where a loan is granted by the Loan Commissioners on the security of a mortgage of any rate (whether with or without any other security) such rate from and after the date of the mortgage shall be charged with the payment to the use of Her Majesty of the loan with interest as in the mortgage mentioned.

Where the loan has been granted to any borrower who appeared to the commissioners to have power to levy and mortgage such rate and has been expended upon the work in respect of which or in or for the benefit of the locality in which such rate or any part thereof is levied, the mortgage of the rate for securing the repayment of the loan with interest shall be valid, and may be enforced in pursuance of this Act, notwithstanding any defect in the power or title of the borrower by whom the mortgage purports to be granted; and in particular the commissioners may, although such borrower was not legally constituted or is dissolved, or is otherwise incapable and always was incapable of making, levying, or mortgaging

Sect. 18. Note.

By the Public Works Loans Act, 1876 (39 & 40 Vict. c. 31), s. 7, "special Act" in this section includes any Act relating to any person having power to borrow money from the commissioners.

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such rate, have the same power of making and levying and enforcing the making or levying the said rate for the purpose of repaying such loan and interest, and all other sums due under the mortgage, as if such borrower had been duly constituted, and was not dissolved, and had had full power to make, levy, and mortgage such rate.

Securities to be taken in name of secretary.

XX. All securities for any loan granted by the Loan Commissioners in pursuance of this Act may be given to the secretary of the commissioners on their behalf. Every such security is in this Act referred to as a security given to the commissioners.

Taking possession by commissioners of property on default of payment.

XXI. Where a mortgage of property has been given to secure any loan granted by the Loan Commissioners, and default is made in making payment according to the terms of such mortgage, then at any time after such default and without any consent on the part of any person interested in the equity of redemption of the mortgaged property, the commissioners, without prejudice to any other remedy, shall have power to do all or any of the following things; namely,

(1) Take possession of the mortgaged property, or any part thereof; and

(2) Grant any lease of the mortgaged property, or any part thereof, for such term and upon such reasonable conditions as they may think expedient, and that either for a premium or rent, or both; and

(3) Sell or mortgage the mortgaged property, or any part thereof.

Powers of commissioners when in possession.

XXII. The Loan Commissioners, when authorized to take possession of any mortgaged property, may take possession either by themselves or by any person appointed by them (whether such person is interested in the mortgaged property or not), and upon possession of any mortgaged property being so taken,—

(1) All the estate, right, interest, powers, authorities, and privileges, of what nature or kind soever, which were at the time of the making of the mortgage or may for the time being be vested in or exerciseable by the mortgagor or any person claiming through or under the mortgagor, either in relation to the property or necessary for carrying on and managing the same, shall become vested in the secretary of the commissioners; and

(2) The commissioners may by themselves or any person appointed as aforesaid manage and carry on the property, and receive the revenue arising therefrom, or in any way receivable in respect thereof, or otherwise, in

pursuance of the mortgage, and exercise all or any of the powers and authorities vested in their secretary by this Act; and

(3) The commissioners or their secretary or such person as aforesaid shall not be liable for the repairs or maintenance of the mortgaged property, but may apply any monies received in respect thereof or raised from any rate towards such repairs or maintenance to such extent as the commissioners may think expedient; and

(4) The commissioners may, with the consent of the Treasury, advance out of monies at their disposal under this Act sums for the completion, repair, improvement, or security of the mortgaged property, and every such sum shall be deemed and shall be a loan secured on the property and repayable with the like interest from the time of the advance, and by the like person, and shall have the like priority and be recoverable in the like manner as if it were part of the original loan secured by the said mortgage; and

(5) If the revenue received from or in respect of the property is insufficient to keep down the current expenses of working, maintaining, and repairing the same, together with the instalments of principal and the interest for the time being due on the mortgage, and no rate or no sufficient rate can be levied to meet the deficiency, the commissioners may, with the consent of the Treasury, destroy or cause to be destroyed, or (if they sell the same) authorize the purchaser with the like consent to destroy the same, and sell or authorize the purchaser to sell the materials thereof and other the articles, goods, and effects belonging thereto, and neither the commissioners, nor their secretary, nor the purchaser so authorized, nor his representatives, shall be liable in damages or otherwise to any person whomsoever for such destruction; and the provisions of this Act with respect to the sale of any mortgaged property shall apply to any sale under this section; and

(6) Possession under this Act may be relinquished at such time and in such manner and upon such terms and conditions as the commissioners think fit, and upon such relinquishment all powers, authorities, and privileges which on the taking of possession became vested in the secretary of the commissioners shall, so far as they are not reserved, revert to and become vested in the person in whom the same would have been vested if possession had not been taken, but the commissioners may, if they think fit, on the relinquishment of possession, reserve any of the said powers,

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authorities, and privileges, with a view to the payment of any sum due to them:

(7) Every such relinquishment of possession of any mortgaged property shall be without prejudice to the power of again taking possession thereof under the provisions of this Act.

Powers in relation to rate where default made.

XXIII. Where a loan made by the commissioners is secured by the mortgage of a rate (whether with or without any other security), and the commissioners might, if such loan were secured upon a mortgage of property, take possession of such property, the commissioners may, without prejudice to any other remedy, by notice in writing served at the office or last known place of address of the mortgagor, or where from any cause the same cannot be so served by notice in writing published in the prescribed manner, declare their intention to exercise the powers conferred by this Act, and thereupon the commissioners shall have and may exercise the same power as the mortgagor of making and levying the rate mortgaged, and for that purpose the commissioners or their secretary with their concurrence may appoint an officer who, subject to the direction of the commissioners, shall have and may exercise the same powers, authorities, and duties as if he had been appointed by the mortgagor.

The commissioners, in making an estimate of the rate to be levied for the purpose of paying any sum due, may add such sum as they think sufficient for defraying and may defray thereout all costs, charges, and expenses, including remuneration to any officer or other person employed, incurred by the commissioners in the execution of their powers under this section or otherwise by reason of the default in payment.

Any balance remaining in the hands of the commissioners shall be paid by them to the mortgagor.

The commissioners may, by a like notice, declare their intention to relinquish the powers conferred by this section, and that either absolutely or with reservations and conditions, and thereupon all such powers shall revest in the mortgagor, subject to the said reservations and conditions.

Liability of commissioners after taking possession or in default of payment.

XXIV. When the Loan Commissioners have taken possession of any property under this Act, or exercised the powers conferred by this Act in relation to any rate, neither they nor their secretary, nor any person appointed by them in that behalf, shall be liable to account to any person interested in the equity of redemption in such property or rate for any monies which, but for their wilful neglect or default, they or he might have received when so in possession or exercising such powers, or for any monies other than those which have actually come to their or his hands.

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Sale and mortgage by commissioners of mortgaged premises.

XXV. Where the Loan Commissioners have power to sell or mortgage, they shall have power to sell or mortgage either together or in parcels, by public auction or private contract, and subject to such conditions as to title or evidence of title or otherwise as the commissioners may think proper.

They may also buy in at any auction and rescind any contract for sale or mortgage, and resell or remortgage, without being responsible for any loss occasioned thereby.

Where a sale cannot be made in the ordinary way for a sum equal to the amount remaining due under the mortgage, the Loan Commissioners may, if they think fit, sell in such manner and subject to such conditions, stipulations, and agreements as they may think expedient for the purpose of ensuring the completion or carrying on of the work comprised in such mortgage by the purchaser thereof, with a view to the public good or general benefit or for any other purpose, notwithstanding such conditions, stipulations, and agreements may be prejudicial to the sale, or may not be beneficial to the persons interested in the equity of redemption in the property.

The Loan Commissioners may for the purpose of any sale or mortgage execute all such agreements, conveyances, and instruments as they may think fit.

Purchaser not liable to see to the validity of sale or application of money.

XXVI. Every sale or mortgage made by the commissioners or their secretary, and purporting to be made in pursuance of this Act, shall, so far as regards the interest of the purchaser and mortgagee, be deemed to be valid, and the purchaser or mortgagee shall not be bound to see or inquire whether the sale or mortgage is authorized, nor in the case of a mortgage whether the money raised is required to be raised, nor as to the necessity or expediency of or authority for making the conditions, stipulations, or agreements subject to which the sale or mortgage was made, nor otherwise as to the propriety or regularity of such sale or mortgage, nor be affected by express notice as to any matters into which he is not bound to see or inquire.

The receipt in writing of the Bank of England, or one of their cashiers or other proper officer for the purpose of the Bank of England, or other prescribed receipt, shall be a full discharge for the money paid on the sale or mortgage, and the person paying the same shall not be bound to see to the application of such money, or be liable or in any manner accountable for the misapplication or non-application thereof.

Terms of lease, sale, or mortgage.

XXVII. Any lease, mortgage, conveyance, or other disposition made by the secretary of the commissioners under this Act of any mortgaged property may be in the prescribed form, and shall convey to the person in whose favour such lease, mortgage, conveyance, or other disposition is made, and

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according to the terms thereof, all or any part of the estate, right, interest, powers, authorities, and privileges, which under the mortgage and this Act are vested in or capable of being exercised by the Loan Commissioners, or their secretary, either before or after possession taken, and the same shall thereupon be vested in and may be exercised and put in force by such person accordingly.

Nothing in this Act shall operate to invalidate or affect the rights of any person entitled *bonâ fide* to any debt, estate, or interest, having priority over or ranking *pari passu* with the loan granted by the commissioners, or the security for such loan, or the rights of any lessee under any lease made either prior to such security or with the concurrence of the commissioners.

Application of money arising on taking possession, sale, mortgage, &c. by commissioners.

XXVIII. Any money arising from the taking possession, lease, sale, mortgage, or other disposition under this Act by or under the direction of the Loan Commissioners of any mortgaged property shall be applied first in discharge of all costs, charges, and expenses incurred by or under the direction of the commissioners in respect thereof, or otherwise by reason of the default in payment, and secondly in discharge of the whole of the principal of the loan secured by the mortgage and for the time being unpaid (notwithstanding that the same or any instalment thereof may not have become actually due), and in discharge of all interest accrued due on such principal, and of all other sums (if any) due under the mortgage.

The surplus (if any) of such money either shall be paid to the mortgagor or other person or persons entitled thereto, or, if the commissioners think fit, shall be paid by the secretary of the commissioners into the Court of Chancery in England in like manner as if he were a trustee of such money for the persons entitled thereto, and the court may make such orders for the payment and distribution of such money to or among those persons as may from time to time seem to the court just.

Payment of loan before it is due, and transfer of security for all or part of loan.

XXIX. The Loan Commissioners may, if they think fit, at any time accept payment of the whole or any part of the principal and interest of any loan or other monies secured by any mortgage under this Act before the time when the same is due; and may release or convey the mortgaged property or rate to the person paying the same, or as he may direct, upon such terms and conditions and in such manner and form as the commissioners may think expedient.

The person in whose favour any conveyance of the mortgaged property or rate under this section is made shall, subject to any limitations inserted therein, be entitled to the like priorities, powers, and authorities as the commissioners or their secretary were entitled to, either subject to or with

priority over or concurrently with any priorities, powers, and authorities reserved to the commissioners by the conveyance. Sect. 29.

The commissioners shall have full power to enter into and concur in all such arrangements as they may deem expedient for the purposes of carrying into effect a release or conveyance under this section.

Discharge of security and revesting of property on repayment of loan.

XXX. Upon all money due under a mortgage under this Act being fully paid the commissioners shall, when required, give in the prescribed manner to the person liable to the payment thereof a receipt in writing for the same, and such further sufficient discharge (if any) as may seem to the commissioners to be necessary, and upon such receipt being given the mortgage rate shall be released from the charge and the mortgaged property, or the part thereof not sold or disposed of under this Act shall (unless the commissioners, on the request and at the expense of the person paying the said money, make any other disposition thereof), revest in the person who would have been entitled thereto if the mortgage had not been made, subject nevertheless to any lease, mortgage, or other act previously made or done by or under the direction of the commissioners.

Bankruptcy of debtor.

XXXI. Where an individual liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or insolvent, or enters into any composition or arrangement with his creditors, or has his affairs liquidated by arrangement, or takes the benefit of, or becomes subject to the provisions of any Act passed for the relief of persons in debt, or for enabling the property of such persons to be distributed among their creditors, or where any company liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or is wound up, the whole of such loan shall become due immediately, notwithstanding that the date for the payment thereof or part thereof has not arrived, unless in the case of a surety the commissioners think fit to accept some other surety.

Form of mortgage.

XXXII. Every security given under this Act may be in such form as may be prescribed, and the fact of the secretary of the Loan Commissioners being a party thereto shall be conclusive evidence that the same is in the prescribed form, and every such security shall be valid and effectual to pass all the estate, right, and interest purporting to be passed thereunder by the parties executing the same, subject to the provisions of this Act.

Recovery of debt on personal security.

XXXIII. Every sum payable under any security made in pursuance of this Act shall be made payable to the use of Her Majesty, and may be recovered as a specialty debt due to the Crown, in like manner as if the security had been made in the form provided by the Act of the thirty-third year of the reign

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of Henry the Eighth, chapter thirty-nine ; but no person shall be liable for any larger sum than that which he is expressed to be bound to pay.

Every sum payable in respect of a loan granted by the Loan Commissioners (either before or after the passing of this Act) or under the security for such loan, shall be compounded for or released only under the authority of Parliament in each case.

The Loan Commissioners may issue a warrant to the proper officer forthwith to enforce payment of such debt to the Crown as aforesaid, and if necessary to enter satisfaction therefor, and shall have the control over any proceedings taken to enforce such debt, and such proceedings shall not be discontinued, quashed, or abated without the written authority of the Loan Commissioners.

The Court of Exchequer, or other competent court, or any judge thereof, may, upon the production of the said warrant, direct an immediate writ of extent, or of *diem clausit extremum*, to issue without any writ of *scire facias* or any affidavit or other proof of the cause of the proceeding.

Nothing in this Act shall render it the duty of the Loan Commissioners to issue such warrant or to register such writ or debt, unless they are of opinion that it is necessary for the purpose of securing the payment of the debt, or that otherwise under the particular circumstances it is expedient so to do.

Recovery of loan after the expiration of term for repayment.

XXXIV. The expiration of the period within which a loan under this Act is made repayable (whether such period is the full period allowed by this or the special Act or a shorter period) shall not in any way affect any power of the Loan Commissioners of recovering or enforcing payment of any sum due in respect of such loan.

Supplemental Provisions as to Loans and Securities.

Security for completion of works partly finished or not commenced.

XXXV. Where the commissioners grant a loan in aid of any work which is either partly completed or not commenced, they may, by a bond to Her Majesty or otherwise, take such security for the application of the loan to the work, and for the due completion of the work (including the raising of sufficient funds for that purpose), as they may think sufficient for securing the interest of the public.

Examination as to proper application of monies lent.

XXXVI. Where the Loan Commissioners advance any loan for any purpose on the security of a rate, it shall be the duty

Sect. 36. Note.

This section is amended by the Public Works Loans Act, 1878 (41 & 42 Vict. c. 18), s. 4 ; and by the Public Works Loans Act, 1881 (44 & 45 Vict. c. 38), s. 9.

of the Local Government Board to satisfy themselves that the loan is applied to such purpose; they may from time to time make such examination as they may think necessary with a view to ascertain that such loan has been so applied. Sect. 36.

The Local Government Board may appoint any officer to conduct on their behalf any examination under this section, and such officer shall have the same powers to require the attendance of persons and the production of accounts and other documents, so far as such attendance or production is required for the purpose of such examination, as an inspector of the Local Government Board has under the Acts relating to the relief of the poor.

Suspension of payment of principal and interest.

XXXVII. The Treasury may, on the recommendation of the Loan Commissioners, postpone for any time not exceeding five years the payment of the instalments of principal and interest, or either, due or to become due in respect of a loan granted by the commissioners for the purpose of any work, and that upon such terms and conditions for the completion and improvement of such work, and the ultimate payment of such principal and interest, as the Treasury may on the said recommendation authorize.

Change of security.

XXXVIII. The Loan Commissioners may, subject to the prescribed regulations, if under the circumstances of the case they think fit, accept any security in lieu of any security previously given to them, or of any part of such security, and that subject to such terms and conditions as they direct; so, however, that the substituted security shall be of the character which the commissioners might take if the loan were originally granted at the time of such substitution, and that no change of security under this section shall extend the period for the repayment of the loan.

Concurrence by commissioners in leases, sales, &c. of mortgaged property.

XXXIX. The Loan Commissioners may concur in any lease, conveyance, release, or other disposition of any property mortgaged under this Act, or any part thereof, and in the arrangements relative thereto, upon such terms and conditions as they may think fit, and either with or without consideration, so that in their opinion the payment, with interest, of the loan charged on the mortgaged property is sufficiently secured or is not thereby made less secure.

Special Provisions as to Borrowers.

Power to various authorities to mortgage and levy rates.

XL. The justices for any county, or any riding, division, parts, or liberty of a county, in general or quarter sessions

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Note.

The second paragraph, and the words "and council respectively" in the third paragraph of this section, are repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 5, and schedule I., part 2, as to boroughs within that Act.

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assembled, may (if they resolve by a majority of not less than five justices so to do) borrow money from the Loan Commissioners for the purpose of building, rebuilding, enlarging, repairing, improving, and fitting up any police station and justices' room, and offices connected therewith, or any of such purposes, and may levy a rate or any increase of a county rate for the purpose of paying the principal and interest of such loan, and may mortgage such rate or the county rate to the Loan Commissioners in accordance with this Act.

The council of any borough may borrow money from the Loan Commissioners for the purpose of building, rebuilding, enlarging, repairing, improving, and fitting up any police station and justices' room, and offices connected therewith, or any of such purposes, and may levy a rate or an increase of the borough rate for the purpose of paying the principal and interest of such loan, and may mortgage such rate or the borough rate to the Loan Commissioners in accordance with this Act.

The said justices and council respectively shall have power to give the mortgage in such manner and form as the Loan Commissioners may direct.

Miscellaneous.

Regulations by commissioners.

XLI. The Loan Commissioners may from time to time make regulations for carrying into effect this Act, and in particular with respect to the quorum and proceedings of the commissioners and the authentication of documents made or issued or directions given or acts done by them, and with respect to loans under this Act and applications therefor, and annual and quarterly statements of the amounts required to be borrowed, and the information to be given and conditions to be complied with by the applicants, and with respect to the forms to be used, including the forms of the securities, and with respect to any fees or sums to be paid by the applicants or by other persons dealing with such commissioners, and with respect to the relations between such commissioners and the National Debt Commissioners and the Bank of England.

Every such regulation shall be submitted for the approval of the Treasury, and as approved by them with such modifications and additions as they think fit, shall be published in the *London Gazette*, and when so published shall have effect as if it was enacted in this Act.

Every such regulation shall be laid before both Houses of Parliament as soon as may be after the making thereof if Parliament be then sitting, or if Parliament be not then sitting within one month after the then next meeting of Parliament. Every regulation, purporting to be made in pursuance of this section, shall after the expiration of six months after its

publication in the *London Gazette* be deemed to have been duly made and to have been within the powers of this Act. Sect. 41.

Regulations made under this section may be from time to time rescinded, altered, and added to in like manner as the original regulations.

[Sect. 42. Repealed by 46 & 47 Vict. c. 39.]

Accounts.

XLIII. The Loan Commissioners shall keep at the Bank of England such account, and under such title as the Treasury may from time to time direct, and every such account shall be deemed to be a public account.

Such accounts as the Treasury may from time to time direct of all monies issued from or payable to the Consolidated Fund in pursuance of this Act during every financial year, and of all transactions under this Act during that year, including all sums due for the time being from any person in respect of any loan granted by the Loan Commissioners either before or after the passing of this Act, shall be kept by the National Debt Commissioners and the Loan Commissioners respectively, and such other persons (if any), and be audited by the Comptroller and Auditor-General in such manner as the Treasury may from time to time direct.

Perjury.

XLIV. Any person who, when examined by the Loan Commissioners in pursuance of this Act, or any regulation made under this Act, wilfully gives false evidence, or who, for the purpose of obtaining a loan under this Act, wilfully gives information to such commissioners which is false in any material particular, shall be guilty of perjury.

Authority, and laying before Parliament Treasury warrants.

XLV. The warrant of the Treasury issued under the authority of this Act shall be a sufficient authority to the Bank of England for doing the things thereby directed to be done for the purposes of this Act, and copies of any such warrant relating to the borrowing of money shall be laid before both Houses of Parliament, within one month of the date thereof, if Parliament be then sitting, and if not within one month after the then next meeting of Parliament.

Receipt for money payable on account of loan, &c.

XLVI. The receipt in writing of the Bank of England, or one of their cashiers or other the proper officer for the purpose of the Bank of England, and any other prescribed receipt for any money paid in discharge of the principal or interest of any loan granted under this Act, or of any sum due under any security made under this Act or otherwise payable to or by the direction of the Loan Commissioners or their secretary, shall be a complete discharge to the person paying the same.

Notices may be served by post.

XLVII. Notices, directions, orders, and documents required by this Act, or by any regulation made under this Act, to be

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served or sent may, unless otherwise expressly provided, be served and sent by post, and, until the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice, direction, order, or document was prepaid, and properly addressed, and put into the post.

Notices to and by commissioners.

XLVIII. Notices and documents required by this Act, or by any regulation made under this Act, to be served on the Loan Commissioners, may be so served by serving the same on their secretary, or by sending the same addressed to or delivering the same at the office of the commissioners.

Notices and documents required for the purposes of this Act, or of any regulation made thereunder, to be served by or on the Loan Commissioners, or to be made or issued by the Loan Commissioners, shall be in writing or in print, or partly in writing and partly in print.

Effect of schedules.

XLIX. The schedules to this Act shall be construed and have effect as part of this Act.

Application of Act to loans under special Acts.

L. Except so far as a special Act, by express reference to some part of this Act, alters that part, every loan made by the Loan Commissioners shall, notwithstanding any provision in such special Act and any rule of law or custom, be made in accordance with and under the powers of this Act, and be repayable in manner provided by this Act, and by the security for the same granted under this Act, and every such loan, together with the security for the same, shall have the priority and be subject to the powers, authorities, and remedies mentioned in this Act; and although made in pursuance of a special Act, shall be deemed for all purposes to be a loan under this Act.

Definitions.

LI. In this Act, if not inconsistent with the context,—

The expression "person" includes a body of persons, whether corporate or unincorporate;

* * * * *

The expression "National Debt Commissioners" means the Commissioners for the Reduction of the National Debt:

The expression "Bank of England" means the Governor and Company of the Bank of England:

The expression "financial year" means the year ending the thirty-first day of March:

Sect. 50. Note.

By the Public Works Loans Act, 1876 (39 & 40 Vict. c. 31), s. 7, "special Act" in this section includes any Act relating to any person having power to borrow money from the commissioners.

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The expression "prescribed" means prescribed by the regulations made under this Act with the approval of the Treasury:

The expression "special Act" means any Act passed before the passing of this Act which authorizes the Loan Commissioners to lend money for the purposes of any work mentioned in the first schedule to this Act and any Act passed after the passing of this Act, which authorizes the Loan Commissioners to lend money for any purpose:

The expression "security" includes a mortgage:

The expression "mortgage" includes a charge and any instrument in the nature of a mortgage or charge, and in Scotland any heritable security:

The expression "conveyance" includes any grant, assignment, transfer, or other disposition or assurance; and the expression "convey" shall be construed accordingly:

The expression "rate" means a rate, cess, or assessment the proceeds of which are applicable to public local purposes and leviable on the basis of a valuation of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate, as before defined, and the making and levy of a rate includes the issue and enforcement of any such precept, certificate, or instrument as aforesaid, and expressions relating to the making and levy of a rate shall be construed accordingly:

Any toll, due, rent, imposition, and other sum not being a rate as above defined shall be deemed to be property for the purposes of this Act.

All references to a mortgagor or borrower shall, if need be, be deemed to include a reference to the successors, heirs, executors, administrators, and assigns of, or other persons claiming through or under such mortgagor, or borrower.

Temporary Provisions and Repeal.

[Sect. 52. Repealed by the S. L. R. Act, 1883.]

[Sect. 53. Repealed by the S. L. R. Act, No. 2, 1893.]

[Sect. 54. Repealed by the S. L. R. Act, 1883.]

Reference in Acts to repealed Acts.

LV. A reference in any Act to any enactment hereby repealed, or to the commissioners for the execution of any Act hereby repealed, shall, so far as is consistent with the tenor thereof, be deemed to refer to the corresponding enactment in this Act and to the Public Works Loan Commissioners under this Act.

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Saving for loans and transactions under repealed Acts.

LVI. Save as otherwise provided by this Act this Act shall apply only to loans granted and securities made after the commencement of this Act.

The Loan Commissioners shall have the same power of making further advances on any mortgage made before the commencement of this Act and intended to secure more than the sum which has actually been advanced thereon as they would have had under the Acts repealed by this Act if they had not been repealed, but such advances shall be made out of money issued under this Act.

The Loan Commissioners, on granting any new loan to persons by whom a loan granted before the commencement of this Act is still owing, may make it a condition of the grant of such new loan that the old loan shall be deemed to have been granted in pursuance of this Act, and on such condition being accepted the old loan shall be deemed to be a loan under this Act.

For the purpose of any loans granted and securities made before the commencement of this Act, the Loan Commissioners under this Act and their secretary and other officers for the time being shall be deemed to be the same commissioners, secretary, and officers as the commissioners, secretary, and officers under the Acts in pursuance of which such loan was granted and securities made, and all securities and documents relating to such commissioners, secretary, and officers shall be construed accordingly.

Repeal of Acts.

LVII. So much of any enactment as authorizes any loan by the Public Works Loan Commissioners for the purpose of any work other than a work mentioned in the first schedule to this Act, or as is otherwise inconsistent with this Act, is hereby repealed.

Provided that—

(1) The repeal of an enactment by this Act shall not affect—

* * * * *

(*b.*) Any power to make or levy rates, or any other power capable of being exercised for the purpose of enabling or compelling the repayment of any money due on account of any loan granted by the Public Works Loan Commissioners before the commencement of this Act, whether the same or any part thereof has been actually advanced before or after such commencement;

* * * * *

(2) Neither this Act nor the repeal of any enactment by this Act shall affect the issue of money for the purposes of loans by the Commissioners of Public Works in

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Note. This section is in part repealed by the S. L. R. Act, No. 2, 1893.

Ireland, in accordance with the Act of the session of the twenty-ninth and thirtieth years of the reign of Her present Majesty, chapter seventy-three, intituled "An Act to authorize for a further period application of money for the purposes of Loans for carrying on Public Works in Ireland," and the sums mentioned in that Act may be issued in like manner as if this Act had not passed. Sect. 57.

FIRST SCHEDULE.

Works for the Purpose of which the Commissioners may lend Money.

Baths and wash-houses provided by local authorities.

Burial grounds provided by burial boards, or (in Scotland) by burial boards or parochial boards.

Conservation or improvement of rivers or main drainage.

Docks.

Harbours and piers, and any work for which the Public Works Loan Commissioners are authorized to lend by section three of the Harbours and Passing Tolls, &c. Act, 1861. 24 & 25 Vict. c. 47.

Improvement of towns.

Labourers' dwellings.

Lighthouses, floating and other lights for the guidance of ships, buoys and beacons.

Lunatic asylums of any county or borough in Great Britain, or of any district or parochial board in Scotland.

Police stations and justices' rooms of any county or borough in Great Britain, and the offices connected therewith, also sheriff court buildings in Scotland.

Prisons.

Public libraries and museums.

Any schoolhouse or work for which a school board is authorized to borrow under the Elementary Education Acts, 1870 and 1873, or any Act amending the same, or under the Education (Scotland) Act, 1872. 33 & 34 Vict. c. 70. 36 & 37 Vict. c. 86.

Waterworks established or carried on by a sanitary or other local authority. 35 & 36 Vict. c. 62.

Workhouses or poorhouses, and any work for which guardians of the poor, or (in Scotland) any parochial board, are authorized

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This schedule is added to by the Public Works Loans Act, 1896 (59 & 60 Vict. c. 42), s. 2, and the Public Works Loans Act, 1898 (61 & 62 Vict. c. 54), s. 3; and the expression "main drainage" is explained by the Public Works Loans Act, 1894 (57 & 58 Vict. c. 11), s. 3. Schedule I. Note.

Schedules.

to borrow under the general Acts relating to the relief of the poor.

Any work for which a sanitary authority are authorized to borrow under the Public Health Act, 1875.

Any work for which police commissioners are authorized to borrow under the General Police and Improvement (Scotland) Act, 1862, and any Act amending the same.

25 & 26 Vict. c. 101.

Any work for which a local authority are authorized to borrow under the Public Health (Scotland) Act, 1867, or any Act amending the same.

30 & 31 Vict. c. 101.

Any work for which the commissioners are authorized to lend by any Act passed after the passing of this Act.

SECOND SCHEDULE.

Form of Declaration.

I, *A. B.*, do hereby declare that according to the best of my judgment I will faithfully and impartially execute the powers and duties of a Public Works Loan Commissioner according to law.

[Schedule III. Repealed by the S. L. R. Act, No. 2, 1893.]

PUBLIC WORKS LOANS ACT, 1876.

39 & 40 VICT. CHAP. 31.

An Act to grant money for the purpose of Loans by the Public Works Loan Commissioners, and to amend the Public Works Loans Act, 1875. [24th July, 1876.]

* * * * *

VII. . . . Sections eighteen and fifty of the Public Works Loans Act, 1875, shall be construed as if "special Act" in those sections included any Act relating to any person having power to borrow money from the Public Works Loan Commissioners.

THE CUSTOMS CONSOLIDATION ACT, 1876.

39 & 40 VICT. CHAP. 36.

An Act to consolidate the Customs Laws. [24th July, 1876.]

* * * *

IX. No commissioner, officer, clerk, or other person acting in the management or service of the Customs shall be compelled to serve in the militia, or on any jury or inquest, or to assume the office of a mayor or sheriff, or to act in any corporate, parochial, or other public office, and section twelve of "The Juries Act, 1870," shall not apply to persons hereby exempted.

* * * * *

DIVIDED PARISHES AND POOR LAW AMENDMENT ACT, 1876.

39 & 40 VICT. CHAP. 61.

An Act to provide for the better arrangement of divided Parishes and other local areas, and to make sundry amendments in the Law relating to the Relief of the Poor in England. [15th August, 1876.]

[*WHEREAS many parishes in England are divided and some unions are formed in a manner which renders their arrangements inconvenient, and whereas other unions are too large in extent for the purposes of the relief of the poor and other local administration, and it is expedient that provision should be made for remedying these inconveniences:*

And whereas other amendments are required in the laws for the relief of the poor in England;]

[The preamble is repealed by the S. L. R. Act, 1894.]

Be it *therefore* enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (that is to say):—

I. Where any parish shall be divided so as to have its parts or any of them isolated in some parish or parishes or otherwise The Local Government Board may

Sect. 1.

Note.

Doubts having arisen as to the construction of this section, the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 5, provided as follows: "An order under the said Act may deal with several divided

Sect. 1.

make provisions for divided parishes.

detached the Local Government Board may, as and when they shall see fit, after local inquiry to be held upon notice duly given to the clerk of the peace of the county or counties in which the parts of the parish are situated, and in the parishes to be affected in the manner prescribed, or usually adopted therein, for the publication of parochial notices, make an order, to take effect at the expiration of some period not less than three months from the day when a copy of such order shall have been sent to the overseers, either for constituting separate parishes out of the divided parish or for amalgamating some of the parts thereof, with the parish or parishes in which the same may be locally included, or to which they may be annexed, as shall appear to such board to be most convenient, and providing where requisite for a change of the county of the parish or part of a parish.

If one-tenth of ratepayers object, the order shall be provisional only.

II. If one-tenth in number and rateable value of the persons appearing on the rate in force for the time being to be rated to the relief of the poor in any parish affected by such order shall give notice to the Local Government Board in writing of objection to the same, within three months after copies of such order shall have been sent to the overseers of the parishes affected thereby, the order shall be deemed to be a provisional order only, and shall be dealt with accordingly.

Sect. 1.

Note.

parishes at the same time, and may constitute separate parishes out of any of such divided parishes or out of parts of several divided parishes, and may unite any parts of a divided parish or of several divided parishes with each other, and amalgamate the parts so united with any adjoining parish, and may amalgamate any part of a divided parish or parts of several divided parishes with an adjoining parish or adjoining parishes."

The provisions of this Act are by sect. 4 of the same Act extended to inconvenient divisions of parishes, as though they were isolated parts of parishes; and by sect. 6 to extra-parochial places.

By the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 2, detached parts of parishes became parts of the parishes surrounding them, as though they had been amalgamated therewith by an order under this section.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 2, where any parish was at the passing of that Act situate partly within and partly without a rural sanitary district, the part within and the part without the district became separate parishes, as though they had been constituted separate parishes under this Act.

Provision is also made by the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 3, for the Local Government Board adjusting intermingled parishes or dividing extensive parishes; and by the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), ss. 4, 22, for adjusting parts of divided parishes, and for confirming agreements between vestries for the readjustment of boundaries between two parishes in the metropolis.

Sect. 3.

State of parishes after new order.

III. From and after the twenty-fifth day of March next ensuing the day when such order, if not objected to, shall take effect, and in the case of a provisional order next ensuing the date of the Act of Parliament confirming the same, the several parts of every parish to which such order shall apply shall be and continue to be constituted in the manner directed by the said order, and the officers of the several parishes affected thereby shall be empowered and shall be required to act as if such parishes had been constituted in the manner directed prior to the issue of such order.

Ecclesiastical divisions and municipal boundaries not to be affected.

IV. Nothing herein contained shall apply to the ecclesiastical divisions of parishes, nor to the constitution of school districts, without the sanction of the Education Department, or shall alter the boundaries of any municipal borough, and for the purposes of the election of members of Parliament and of burgesses in municipal boroughs, of the jury lists, of the action of the justices, and of the police and constables, the parish shall continue to be deemed unaltered until new lists are made and new constables are appointed.

Provision for highway district.

V. Where a parish affected by the order shall be included in a highway district, its condition therein and the appointment of the waywarden thereof shall be changed according to the terms of the order, whether its area or contents be diminished or increased thereby.

Overseers to be appointed for the parish so created.

VI. Every parish constituted under this Act by the order of the Local Government Board shall, notwithstanding the prohibition as to the appointment of overseers contained in the

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Sect. 4.

Note.

By the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 5, this section is amended so that an alteration of area shall extend to alter the constitution of the school districts unless the Education Department otherwise direct.

Sect. 5.

Note.

Doubts as to the effect of an order under this section are resolved by the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 7.

By the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 45 Vict. c. 58), s. 6, this section applies to any parish in a highway district, although it may not be a parish for which a waywarden can be elected.

Sect. 6.

Note.

The Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 22, prohibits the appointment of separate overseers for any place for which before the passing of that Act separate overseers had not been lawfully appointed.

The second paragraph of this section is repealed, so far as it relates to rural parishes, by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89.

Sect. 6.

twenty-second section of the Poor Law Amendment Act, 1844, be a parish for which an overseer shall be appointed, and for all other lay and civil purposes to which a parish may be liable or entitled.

The meeting of the inhabitants of the same qualified as in the case of any ordinary parish shall be deemed the vestry meeting thereof, and the rector, vicar, or perpetual curate having cure of souls in the greater part thereof shall, when present, be the chairman thereof, unless the Local Government Board shall determine in their order which of such incumbents shall be such chairman, and all the documents of the respective parishes shall be deposited and kept in such place as the Local Government Board by their order shall appoint.

Provision for compensation.

VII. If any person shall be deprived of any office or employment, or if his profits in respect thereof shall be diminished under or by reason of any provision of this Act, the Local Government Board may, if they see fit, award by their order a compensation to him, according to their judgment, to be paid out of such fund and in such manner as shall appear to them to be equitable.

Adjustment to be made of property and debts.

VIII. The said board shall make due adjustment of the property, if any, and of the debts or liabilities of the parishes among the several parts thereof according to the alterations caused by the order, and the arrears of rates due at the time when the order takes effect shall be recovered by the overseers or other officers properly competent to do so, and from the persons liable, as if there had been no alteration, and the justices, who shall make a county rate upon any such parishes before a new basis for the same shall be established, shall make due provision therein for the alterations aforesaid.

Provided that no person shall be liable to any rate made in the parish to which the part of the parish wherein his land or premises shall be situated may be added before the said twenty-fifth day of March.

Endowments for benefit of divided parish not to be affected.

IX. Nothing herein contained shall prejudice, vary, or affect any right, interest, or jurisdiction in or over any charitable endowment which now is, or hereafter shall be, applicable for the benefit of a divided parish, as defined by section one of this Act, or the inhabitants thereof.

Sect. 8.

Note.

This section, down to the words "no alteration," is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, except as to cases where a parish is dealt with by the Local Government Board. That part has, therefore, no application in the case of parishes altered by county councils in pursuance of the Local Government Acts, 1888 and 1894.

Sect. 10.

Husbands and wives in workhouses.

X. When any two persons, being husband and wife, shall be admitted into any workhouse, and either of them shall be infirm, sick, or disabled by any injury, or above the age of sixty years, it shall be lawful for the guardians of the union or parish to which such workhouse shall belong to permit in their discretion such husband and wife to live together, and every such case shall be reported forthwith to the Local Government Board.

Local Government Board under certain circumstances may dissolve a union.

XI. If it shall appear to the Local Government Board that it is expedient for rectifying or simplifying the areas of management or otherwise for the better administration of the relief of the poor that any union, whether formed under the Poor Law Amendment Act, 1834, or otherwise, should be dissolved, the said board may, after inquiry held in some one of the unions to be affected, after public notice, so that all persons interested in the same may attend and be heard thereat, issue their order for the dissolution of any such union, and such dissolution shall have the same effect and be attended with the same consequences as in the case of a union dissolved under the provisions of the said Act of 1834.

Division of parish into wards for election of guardians.

XII. [*The nineteenth section of the Poor Law Amendment Act, 1844, shall be repealed, and*] the Local Government Board may

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Sect. 10. Note.

The provisions of this section to some extent supersede, although they do not repeal, the provisions of sect. 23 of the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109).

Sect. 11. Note.

Power to alter and dissolve unions was given to the Poor Law Commissioners by sect. 32 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76).

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 58, when any poor law union is situate in more than one county, the Local Government Board, instead of dissolving the union, may by order provide that the same shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of outdoor relief, and may by the order make such provisions as seem expedient for determining all other matters in relation to which such union is to be one union or two or more unions. Similar powers are conferred on county councils for the purposes of the Local Government Act, 1894 (56 & 57 Vict. c. 73), by sect. 36 (6) of that Act.

As to the consequences of a dissolution of any union, see the Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2).

Sect. 12. Note.

The words in italics are repealed by the S. L. R. Act, 1883.

County councils have concurrent powers with the Local Government Board of dividing rural parishes into wards and determining the number of guardians to be elected (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60 (1), (3)).

Sect. 12.

by their order divide any parish into wards for the election of guardians, and determine the number of guardians to be elected for every such ward, having due regard to the value of the rateable property therein; and each such ward shall for the purposes of such election be deemed to be a separate parish, except so far as the said board may otherwise order.

Change of name of union.

XIII. The Local Government Board may, when they see fit, by their order change the name of any union, and direct how such change of name shall be published; no such change of name shall affect any rights or obligations of, or securities given by or to the said union, or render defective any legal proceedings instituted by or against the said union; and any legal proceedings may be continued or commenced by or against the said union by their new name which might have been continued or commenced by or against the union by their former name.

Paupers not to vote at election of guardians.

XIV. No person shall be entitled to vote in the election of a guardian or in the election to an office under the provisions of any statute who shall be in receipt of relief given to himself or his wife or child, or who shall have been in receipt of such relief on any day during the year last preceding such election. In the case of any person objected to on this ground a certificate from the clerk of the guardians under his hand shall be sufficient evidence of such person having received relief.

Guardians of unions and parishes may pay for information required for the effectual discharge of duties.

XV. The guardians of any union or parish, or the board of overseers of any parish incorporated under a local Act, may pay the reasonable expenses incurred in the preparation and collection of information required of or by them respecting any matter which is submitted to their management, supervision, or control, and charge the amount in the case of a union to their common fund or as general or special expenses, according as the subject matter relates to the general concern of the union or district or to some separate part thereof, and in the case of the board of guardians of a parish or board of overseers to the fund under their control.

Local Government Board to settle payments to officers for the same.

XVI. If the guardians or board of overseers require any such information from any of their officers, the amount payable may, if there be any disagreement on the subject, be settled by the Local Government Board.

[Sect. 17. *Superannuation allowances not affected by services as registrar of marriages or sanitary officer:* This section is repealed, and other provisions substituted in its place, by the Poor Law Officers Superannuation Act, 1896 (59 & 60 Vict. c. 50).]

Sect. 14.

Note.

The disqualification imposed by this section is not removed in the case of an election of guardians, although it is in other cases, by the Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46).

Sect. 18.

The 7 & 8 Vict. c. 101, s. 25, extended.

XVIII. The provision contained in the twenty-fifth section of the Poor Law Amendment Act, 1844, relating to relief, whereby relief to a woman whose husband appears to be beyond the seas is to be given to her in the same manner and subject to the same conditions as if she were a widow, shall apply to a married woman living separate from her husband.

Provisions against persons who desert their families.

XIX. Proceedings may be taken against any person who runs away and leaves his wife or his or her child chargeable, or whereby she or they or any of them shall become chargeable to any union or parish at any time within two years after the commission of the offence, and a summons or warrant in respect thereof may be issued upon the information of any relieving officer of the guardians stating that relief has been applied for on behalf of the wife or child, and that he is informed and believes that the husband or parent, as the case may be, has left the wife or child and gone away, any law or statute to the contrary notwithstanding. The justices to hear the complaint against a husband, under the thirty-third section of the Act of the thirty-first and thirty-second years of Her Majesty, chapter one hundred and twenty-two, may be other than those who summoned him to appear before them, but acting for the same petty sessional division.

Jurisdiction of justices to make orders on husband of a lunatic.

13 & 14 Vict. c. 105, s. 5.

XX. Where an order upon the husband of a lunatic to contribute towards her maintenance is sought to be obtained under the provisions of section five of the Poor Law Amendment Act, 1850, the justices having jurisdiction in the union or parish, the guardians whereof shall make the application, shall be empowered to issue the summons and make the order instead of the justices having jurisdiction in the place where he may dwell.

Extension of 7 & 8 Vict. c. 101, s. 56,

XXI. The provision as to the registration of births and deaths in a workhouse contained in the fifty-sixth section of the Poor

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Sect. 18. Note.

For the conditions under which relief may be granted to a woman who is a widow, see Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 26; the Outdoor Relief Prohibitory Order, December 21st, 1844, art. 1 (4), (5); and the General Outdoor Relief Regulation Order, December 14th, 1852, art. 4 (3).

Sect. 19. Note.

Proceedings may be taken against persons running away and leaving wife or children chargeable under the Vagrancy Act, 1824 (5 Geo. 4, c. 83), s. 5.

Sect. 21. Note.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 10, for the purposes of burial of any poor person dying in a workhouse, such workhouse shall be considered as situated in the parish in the union where such poor person resided last previously to his removal to the workhouse.

Sect. 21.

as to registration to the case of a workhouse situated in two parishes, and provision for deaths of paupers in district schools and asylums.

Law Amendment Act, 1844, shall be extended to the case of a workhouse which is situated in two parishes, so that the registration shall take place in the parish to which the workhouse belongs, or if the parishes be not both in the same union then in that parish of the union to which the workhouse belongs in which any part of the workhouse is situated.

And when a union is comprised in any school or other district the death of any pauper in the school or asylum of such district shall for the purposes of burial be deemed to have taken place in the parish of the union from which such pauper was sent to the said school or asylum, or to the workhouse of the union, as the case may be, and the charges of the burial shall be borne by the common fund of such union.

Extension of 12 & 13 Vict. c. 103, s. 14.

XXII. The provision in the fourteenth section of the Poor Law Amendment Act, 1849, which enables guardians of a union or parish to contract to receive in their workhouse certain paupers chargeable to some other union or parish shall be extended to the managers of a district or other asylum for the reception of paupers, and to every case where the Local Government Board shall deem it expedient and shall give their consent, until such consent shall be withdrawn.

Trustees may pay cost of pauper's relief out of annuity payable to such pauper.

XXIII. Where any pauper shall be entitled to any annuity or periodical payment, the trustee or other person bound to make payment of the same to the pauper may from time to time pay to the board of guardians of any union or parish, out of the

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Sect. 23.

Note.

By the Poor Law Amendment Act, 1879 (42 & 43 Vict. c. 12), s. 1, the provisions of this section are not to apply in certain cases to monies to which a pauper is entitled as a member of a friendly or benefit society, and other provisions are substituted in their place.

As to trustees or persons in possession of any property belonging to a lunatic chargeable to a union paying the guardians for the maintenance of the lunatic, see the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 299.

Under this section it is immaterial whether the "benefit or friendly society" be registered or unregistered (*Merthyr Tydvil* v. *Cambrian Lodge*, 45 J. P. 220).

A trade union is not a "benefit or friendly society" within the meaning of this section (*Winder* v. *Kingston-on-Hull Guardians*, 20 Q. B. D. 412; 58 L. T. 583; 52 J. P. 535).

On an application by guardians for an order under this section, the pauper's right to the periodical payment in question was disputed by the persons alleged to be bound to make it, and it was held that the justices had no power to hear and determine the matter of the application, as it is a condition precedent to the exercise of their jurisdiction that the right of the pauper to receive the periodical payment should be undisputed (*Reg.* v. *Richardson*, [1894] 2 Q. B. 323; 63 L. J. M. C. 212; 70 L. T. 805; 42 W. R. 540; 58 J. P. 640).

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instalments which have become due, the cost incurred in the relief of such pauper accrued since the last instalment, and such payment shall be a legal discharge to such trustee or other person for so much money as shall have been so paid.

Where the guardians incur any expenses in the relief of a pauper lunatic, being a member of a benefit or friendly society, and as such entitled to receive any payment, they may recover from him, as a debt, or from his executors, administrators, or assigns, in case of his death, the sum so expended by them as aforesaid, and the managing body of that society, after notice from the clerk to the guardians, served previously to the money being paid over, shall be required to pay the same to such guardians, and shall be exonerated on payment thereof from any further liability.

Where any trustee, manager, or other person shall decline to make any payment, the guardians may apply to the justices in petty sessions assembled, and such justices may, if satisfied that it is right under all the circumstances to do so, make an order upon him to pay the requisite amounts then due to the guardians at once, and to pay from time to time in future as the liability in respect of the relief arises thereafter.

Provided that this clause shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, nor in respect of any relief granted contrary to the rules and orders made under the authority of the statutes in that behalf.

Costs in bastardy.

XXIV. In any proceeding by the guardians of the poor under the Act 36 Vict. c. 9, for obtaining an order upon the putative father of a bastard child, it shall be competent for the justices making the order to award costs to and against the parties in like manner and to the like effect as in the case of orders for the payment of money made under 11 & 12 Vict. c. 43.

Recovery of costs by guardians of a parish.

XXV. The board of guardians of a parish may recover the costs of and obtain orders for the maintenance of a pauper in

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Sect. 24.

Note.

By the S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 6, costs ordered to be paid by a court of summary jurisdiction, in the case of orders for the payment of a sum of money, are to be enforced as a civil debt, as to which see sect. 35 of that Act.

Sect. 25.

Note.

By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 8, the guardians of a union are empowered to obtain orders of maintenance upon the relations liable under any statute in force to maintain any poor person whose relief would be chargeable to the common fund of the union.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 3,

Sect. 25.

like manner as the guardians of a union can do under the provisions of the 11 & 12 Vict. c. 110, and such guardians, when authorized by the Local Government Board to do so, shall be entitled to apply for orders of removal, and to defend appeals against any such orders obtained, in the place of the overseers, and with the like powers and subject to the like liabilities as guardians of a union are entitled or are subject to in respect of such orders.

Provision for pauper lunatics sent from boroughs to licensed houses and registered hospitals.

XXVI. Where any pauper lunatic shall have been or shall hereafter be sent from any part of a borough wholly or partly comprised within a union or parish to any licensed house or registered hospital, and the account of the charges for the maintenance of such lunatic therein shall be sent to the guardians of the said union or parish, their clerk shall divide the said account into two parts, one of which shall contain the amount which would have been paid for such lunatic if he had been maintained in the asylum of the county wherein the said union or parish or the greater part of it is comprised, and the other shall contain the extra sum in such account, and the said guardians having paid the whole of such charges may send the second account, together with an account of any extra expenses caused by the removal of such lunatic to the place of confinement, to the town council of the borough from which such lunatic was so sent, and such council shall thereupon pay the amount of such accounts to the said guardians, and if the same be not paid the amount may be recovered by the said guardians by process in any court of law as a debt. This section shall not apply to any borough which has provided or contributed to the providing a pauper lunatic asylum.

[Sect. 27. *Repeal of* 56 *Geo.* 3, *c.* 139, *s.* 1, *relating to parish apprentices:* Repealed by the S. L. R. Act, 1883.]

Sect. 25. Note.

guardians obtaining an order of removal may defend the same, and the guardians upon whom it shall be made may appeal against the same, in the like manner and with the like incidents and consequences as in the case of orders obtained or appealed against by overseers.

Sect. 26. Note.

Similar provisions with regard to lunatic paupers sent from boroughs to an asylum are contained in the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 23, extended by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 14.

The liability of smaller quarter sessions boroughs, with population under 10,000, as regards the provision, maintenance, &c., of, and other dealings with asylums for pauper lunatics, is transferred to the county councils by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 38. (See *In re County Council of Salop*, 65 L. T. (N. S.) 416.)

Sect. 28.

Boys in receipt of relief, who are desirous of it may be forwarded by the guardians for examination for the naval service.

XXVIII. If any boy not already an apprentice in the merchant service who, or whose parent or parents, shall be receiving relief in any union or parish, be desirous of serving in the naval service of Her Majesty, and be forwarded for approval by competent authority for such service, the guardians of the poor of such union or parish may enable any such boy to be so forwarded, and may pay out of their funds such sum, if any, as may be required by the regulations of such service for providing outfit or otherwise, and also such expenses as may be necessary to be incurred for the conveyance of such boy in charge of a proper person to and from the port or place in the United Kingdom at which he may be required to attend for examination, and, if accepted, for entry into such service.

Provision for the balances of outgoing overseers.

XXIX. Whereas it frequently happens that the amount to be recovered by the overseers or their successors in the rate last made before the termination of their year of office is insufficient to meet the demands upon them, and the said overseers pay the necessary excess out of their funds, but the rule of law applicable to such payments will not allow such payments to be reimbursed to them out of any subsequent rate, and great hardship arises therefrom: now, therefore, it is hereby enacted, that henceforth in any such case the payment of an overseer to his predecessor in respect of any money so paid by him in excess, if otherwise lawful, may be allowed by the auditor if it appear to him that the said payment in excess did not arise from the negligence or wilful action of the overseer so paying the sum out of his own funds.

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[Sect. 30. *Repeal of* 4 & 5 *Vict. c.* 48, *s.* 1: Repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), which also repeals the whole Act 4 & 5 Vict. c. 48.]

Sect. 28. Note.

Information as to requirements, pay, examinations, &c., of boys for the navy is contained in a circular letter of the Local Government Board, dated April 10th, 1876.

Sect. 29. Note.

The rule of law here referred to was expressed in *Tawnay's Case*, 2 Salk. 531, that a rate can only be raised for the relief of the poor, and not to reimburse previous overseers; although an overseer, during his year of office, may make a rate to repay himself monies of his own that he has laid out in the relief of the poor.

The Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 11, however, enabled succeeding overseers to collect arrears of rates made during the period of office of their predecessors, and out of such arrears to reimburse their predecessors all sums of money which they might have expended for the use of the poor, and which had been allowed in their accounts.

The Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 1, provides for payment of debts incurred by overseers within three months before leaving office by a rate made by their successors.

Certain transitory provisions in the latter part of this section were repealed by the S. L. R. Act, 1883.

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Broker's charges.

XXXI. In all cases where a warrant of distress is issued for the recovery of a poor rate the person against whom the same is issued shall be liable to pay the cost of such warrant, and of the broker or other officer for his attendance to make the levy, although such person may tender the amount of the rate before any levy is made.

Justices to make allowances to clerks of justices in respect of jury lists.

XXXII. The justices of the peace of every county in quarter or general sessions assembled shall from time to time make such allowances as to them shall seem proper as compensation to the clerks to the justices in the several divisions in the county for their services in relation to the revision and allowance of the jury lists.

Every such allowance shall be charged upon and be paid out of the county stock or fund.

Appointment of visiting officer.

XXXIII. The guardians of any union or parish or the managers of any district school may appoint and pay any officer or other competent person to visit and report upon the condition, treatment, and conduct of any poor child under the age of sixteen who shall have gone into service from the workhouse of such union or parish or from such district school.

Provisions as to the Law of Settlement and Removal.

Settlement for persons by residence.

XXXIV. Where any person shall have resided for the term of three years in any parish, in such manner and under such circumstances in each of such years, as would in accordance with

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Sect. 31. Note.

For the general power of justices to order payment of costs of obtaining warrant of distress for poor rates, see Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), s. 1; and as to the effect of tender of rate and costs, see sect. 6 of that Act.

Sect. 32. Note.

Such fees, when payable, are now to be paid by the standing joint committee. (See Local Government Act, 1888, ss. 30, 84.)

The expenses of making out, &c., jury lists are thrown on the poor rates by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 60. The lists are certified by justices at petty sessions under the Juries Act, 1870 (33 & 34 Vict. c. 77), s. 14.

Sect. 33. Note.

Provision is made by the Poor Law (Apprentices) Act, 1851 (14 Vict. c. 11), s. 4, for the periodical visitation, by a relieving officer or some other officer, of young persons hired from workhouses or bound out as pauper apprentices.

Sect. 34. Note.

For the statutes as to irremovability by residence, see the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), and notes thereto.

Statute not retrospective.

The operation of this section is not retrospective so as to confer a settlement on a person who had resided in a parish for a term of

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the several statutes in that behalf render him irremovable, he shall be deemed to be settled therein until he shall acquire a

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three years, but whose residence there had ended before the passing of the Act (*Reg.* v. *Ipswich*, 2 Q. B. D. 269; 46 L. J. M. C. 207; 36 L. T. (N. S.) 317; 25 W. R. 211), even though he had gone to reside in another parish in the same union, and was, consequently, irremovable from the union (*Sunderland Guardians* v. *Sussex, Clerk of the Peace*, 8 Q. B. D. 99; 51 L. J. M. C. 33; 46 L. T. 98; 46 J. P. 375; 30 W. R. 337). But a settlement was acquired thereunder by a person who had resided in a parish for a term of three years, and continued to reside there until and after the passing of the Act, although during the period subsequent to the three years he was in the receipt of relief from the union (*Reg.*, or *Carlisle Union* v. *Brampton Union*, 3 Q. B. D. 479; 47 L. J. M. C. 114; 38 L. T. 714; 43 J. P. 156; *Reg.* v. *Abergavenny Union*, 6 Q. B. D. 31; 50 L. J. M. C. 1; 43 L. T. 602; 29 W. R. 303; 45 J. P. 205).

Residence in one parish.

The residence must be in one parish; and "parish" does not mean or include "union"; residence, therefore, for the period of three years in the aggregate in two or more parishes of the same union does not confer a settlement (*Plomesgate Union* v. *West Ham Union*, 6 Q. B. D. 576; 50 L. J. M. C. 51; 44 L. T. 610; 29 W. R. 630; 45 J. P. 633). But a city which under a local Act maintains its own poor comes within the definition of "a parish." The incorporation of the poor of the city and county of Bristol was by a local Act intrusted with the relief and maintenance of the poor of the city and county, which comprised several parishes. A pauper had resided, after 1876, for two years in one parish and one year in another parish in the said city, and it was held that he had thereby acquired a settlement by residence, inasmuch as the city was a place maintaining its own poor, and therefore within the definition of a "parish" (*Bristol Incorporation* v. *Barton Regis Union*, 66 L. T. 190; 56 J. P. 311).

Residence must be continuous.

In order that a settlement by residence may be acquired under this section there must have been residence in the parish for three consecutive years under such conditions, in each of such years, as would have created a status of irremovability. Each year must be complete and free from anything which would affect the status of irremovability by cutting out any portion of the time. Receipt of relief, therefore, in any of the three years is sufficient to prevent a settlement being acquired by residence during such term of years (*Dorchester Union* v. *Weymouth Union*, 16 Q. B. D. 31; 55 L. J. M. C. 44; 54 L. T. 52; 50 J. P. 310; approved in *St. Olave's Union* v. *Canterbury Union*, [1897] 1 Q. B. 684; 66 L. J. Q. B. 471; 76 L. T. 517; 45 W. R. 529; 61 J. P. 371).

Meaning of "residence."

The word "reside" imports that a man is in the parish as his residence, and not as a visitor. A pauper was a sailor, and before he became such he resided with his mother in a parish in Merthyr Tydvil Union; during three years from May, 1880, he went on different voyages, but in the intervals between he lived in his mother's house, where he kept everything belonging to him, and also contributed to the expenses of the house. At the end of three years he became blind, and returned to his mother's house. *Held* that these facts did not establish that this pauper ever had a residence in the parish in Merthyr Tydvil Union within this section, or that he had ever been there otherwise than as a visitor (*Reg.*, or

Sect. 34. settlement in some other parish by a like residence or otherwise: provided that an order of removal in respect of a settlement acquired under this section shall not be made upon the evidence

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Sect. 34. Note. *Merthyr Union* v. *Stepney Union*, 54 L. J. M. C. 12; 52 L. T. 959; 49 J. P. 164).

There must be an actual, not merely a constructive, residence by the person claiming to have acquired a settlement. A seaman left his wife for the purpose of making a voyage, intending to return to her on the completion of the voyage. During his absence she moved from the parish in which they were residing at the time of his going to sea, to a parish in another union, where he joined her on his return. *Held* that in the absence of any evidence that the wife changed her residence by her husband's directions, the husband could not be treated as constructively resident in the new residence while he was at sea, and that the period that elapsed between the wife's removal there and his return could not be computed as part of the three years' residence by him in the parish, so as to confer upon him a settlement under this section (*West Ham Union* v. *Cardiff Union*, [1895] 1 Q. B. 766; 64 L. J. M. C. 167; 72 L. T. 497; 43 W. R. 424; 59 J. P. 343).

Temporary absence from the parish for business or other purposes during any of the three years does not constitute a break in residence so as to prevent a settlement being gained. A pauper was employed for five years previous to July, 1878, as an indoor residentiary nurse at an infirmary in M., and was bound to undertake any duties assigned to her either as a hospital or private nurse. For five months in 1876, and for three months in 1877, she performed the duties of a nurse in a branch establishment out of M., returning to M. as soon as her duties ceased at the branch establishment. During these absences her wages were paid from the head institution, where most of her effects were kept, and whither she went from time to time for change of clothing. *Held* that the absence of the pauper for the two periods did not constitute a break of residence, and that she gained a settlement by three years' residence (*Manchester Overseers* v. *Ormskirk Union* (No. 1), 16 Q. B. D. 723; 54 L. T. 573; 34 W. R. 533; 50 J. P. 518).

But if the absence be prolonged, it may constitute a break of residence. B., the father of paupers, had resided from March, 1873, to February, 1876, in St. Blazey parish, and then, leaving his wife and children at St. Blazey, went to the Cape of Good Hope in search of work. He sent money regularly to his family for their maintenance during his absence, and after a year returned to St. Blazey, where his family still lived, but he deserted them, and they became chargeable. It was sought to remove them from St. Blazey on the ground that B. had not acquired a settlement in that parish by three years' continuous residence therein; and it was held that there had been such a break of residence by prolonged absence that B. had not acquired a settlement in the parish (*Totnes Union* v. *Cardiff Union*, 51 J. P. 133).

Irremovability. Whether a person has resided in a parish in each of the three years under conditions which would have created a status of irremovability, depends upon the general law relating to irremovability, which is dealt with in the notes to 9 & 10 Vict. c. 66. The following case, however, which turned upon the question of

of the person to be removed, without such corroboration as the justices or court think sufficient. Sect. 34.

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irremovability, was decided with reference to the acquisition of a settlement under this section, and is, therefore, noted here.

A pauper had resided for upwards of three years in a building occupied as a home for reformatory women, which house was supported by money collected at church offertories within the parish in which it was situated, and by annual subscriptions and donations from persons resident in all parts of the kingdom. The pauper paid no money for her maintenance and clothing. It was held that the money collected for her maintenance in the home was a "*bonâ fide* charitable gift," and that she had not been maintained by a rate or subscription raised in a parish in which she did not reside within the meaning of the provisions to 9 & 10 Vict. c. 66, s. 1, and was, therefore, irremovable from and settled in the parish in which the house was situated, under 39 & 40 Vict. c. 61, s. 34 (*Fulham Union* v. *Thanet Union*, 7 Q. B. D. 539; 50 L. J. M. C. 101; 44 L. T. 678; 29 W. R. 723; 45 J. P. 552).

Deserted wife.

A wife who is deserted by her husband, and who resides for one year after the desertion in such a manner as would, if she were a widow, render her exempt from removal, thereby acquires for herself a status of irremovability by the operation of 24 & 25 Vict. c. 55, s. 3, as amended by 29 & 30 Vict. c. 113, s. 17. *Semble* that three years of such residence by a deserted wife would confer on her a settlement under sect. 34 of 39 & 40 Vict. c. 61 (*Reg.* v. *Maidstone Union*, 5 Q. B. D. 31; 49 L. J. M. C. 25; 41 L. T. 586; 28 W. R. 183).

Residence as wife and widow.

It was formerly held that actual residence as a wife might coalesce with residence as a widow to make up the length of residence necessary to procure exemption from removability (*Reg.* v. *Glossop*, 12 Q. B. 117; 17 L. J. M. C. 171), and the majority of the Court of Appeal in 1885 (*Medway Union* v. *Bedminster Union*, 21 Q. B. D. 278) upheld that view. Lopes, L.J., however, dissented, and was of opinion that a wife living with her husband could not do anything during his life to acquire a status of irremovability in her own right, or a settlement, but that her status and settlement followed and changed with his. And the House of Lords agreed with Lopes, L.J., and dissented from the opinion of the majority of the Court of Appeal, being of opinion that during the subsistence of her derivative settlement "a wife has not the capacity to acquire by residence another settlement of the same quality and in the same parish" (*Medway Union* v. *Bedminster Union*, 14 A. C. 465, at p. 487; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580).

Children.

A child under the age of sixteen years cannot by residence become irremovable from a parish from which its parent or parents would be removable, and cannot, therefore, gain a settlement by residence in such parish. A pauper nearly fourteen years old went into domestic service in the parish of Leyton, in the West Ham Union, remained there nearly four years, left before she became eighteen, and then resided outside that union with her mother. The pauper's father had died when she was two years old. The widowed mother never resided in or acquired a status of irremovability from or a settlement in that union. *Held* that the pauper had not resided for the term of three years in the parish of Leyton in such manner and under such circumstances in each of such years as would render her irremovable, and that she had not

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acquired a settlement in the West Ham Union (*West Ham Union* v. *Bethnal Green Union*, [1894] A. C. 230; 63 L. J. M. C. 97; 70 L. T. 818; 42 W. R. 573; 58 J. P. 493; overruling *Reg.* v. *Leeds Union*, 4 Q. B. D. 323; 48 L. J. M. C. 129; 40 L. T. 521; 27 W. R. 708). It follows from the decision of the House of Lords in the West Ham case that the grounds upon which numerous cases have been decided since the passing of 11 & 12 Vict. c. 111, to the effect that unemancipated children did or did not acquire a status of irremovability, and thereby did or did not acquire a settlement, in a parish from which their parent was removable, must now be considered as inapplicable. (See *Wolstanton Union* v. *Northwich Union*, 46 L. T. 528; 46 J. P. 377.)

By the operation of sect. 35 of this Act, the position of illegitimate children is assimilated to that of legitimate children, so that an illegitimate child cannot, any more than a legitimate child, acquire for itself a settlement by residence while under the age of sixteen, but must follow the settlement of its mother (*Manchester Overseers* v. *Ormskirk Union* (No. 2), 24 Q. B. D. 678; 57 L. J. M. C. 103; 62 L. T. 661; 38 W. R. 778; 54 J. P. 487).

Residence, however, by a child under sixteen in a parish from which such child is irremovable, may be coupled with residence in the same parish by the child after attaining the age of sixteen, so as to make up a residence for the term of three years, which is necessary to confer a settlement (*Highworth and Swindon Union* v. *Westbury-on-Severn Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580).

An illegitimate child and an idiot from her birth, having resided after the age of sixteen for more than three years continuously with her mother and her mother's husband as part of their family, was held, notwithstanding the circumstances of her residence, to have acquired a settlement (*Salford Union* v. *Manchester Overseers*, 10 Q. B. D. 172; 52 L. J. M. C. 34; 48 L. T. 119; 31 W. R. 380; 47 J. P. 419).

Upon appeal to quarter sessions from an order of justices adjudging that two pauper children under sixteen years of age were settled in a parish within the Holborn Union, in which their father had a settlement at the time of his death, it appeared that seven years before the order the children, then under seven years of age, were on the death of their mother placed by their father in the care of K., who resided within the Chertsey Union, and lived with him from that time continuously until they became chargeable. After they went to Chertsey the children were visited by their father on three occasions only, and then only for a few hours at a time, but he made a weekly payment for their maintenance, which was continued to his death. It was held that there was evidence on which the justices might find, as they must be taken to have done, that the father had never given up the intention that his children should return to him when he was in a position to receive them, and that there was, therefore, no ground for quashing the order of the justices (*Holborn Union* v. *Chertsey Union*, 15 Q. B. D. 76; 54 L. J. M. C. 137; 53 L. T. 656; 33 W. R. 698; 50 J. P. 36). *Semble* that according to the decision in *West Ham Union* v. *Bethnal Green Union*, *supra*, the grounds for the appeal in this case were altogether bad, as children under the age of sixteen cannot gain a settlement by residence in a parish from which their parents would be removable.

XXXV. No person shall be deemed to have derived a settlement from any other person, whether by parentage, estate, or

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Abolition of derivative settlements.

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Note.

Statute retrospective.

This section is retrospective at all events for the purpose of determining the settlement of children born after 1876, and probably for all purposes except only as regards adjudications made before the commencement of the Act (*Bath Union* v. *Berwick-on-Tweed Union*, [1892] 1 Q. B. 731; 61 L. J. M. C. 137; 66 L. T. 258; 40 W. R. 414; 56 J. P. 296). The father of children who were born after 1876, but who was himself born before that year, had acquired no settlement for himself since he attained the age of sixteen, and his father's settlement was a derivative one; the children all being under the age of sixteen, and born since 1876, having become chargeable to the union during the father's lifetime, held that they took the settlement of their father, and that since it could not be shown what settlement he derived from his father without inquiring into the derivative settlement of his father, the children must be taken to be settled in the parish in which their father was born (*Bath Union* v. *Berwick-on-Tweed Union*, *supra*; *Westbury-on-Severn Union* v. *Barrow-in-Furness Union*, 3 Ex. D. 88; 47 L. J. M. C. 79; 38 L. T. 315; 26 W. R. 372; 42 J. P. 152; *Hereford Union* v. *Warwick Union*, 48 L. J. M. C. 111).

It has, however, been held that so far as the section provides that an illegitimate child shall retain the settlement of its mother until it acquires another settlement, it is not retrospective so as to affect an illegitimate pauper who before the passing of the Act acquired a birth settlement on attaining the age of sixteen under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 71 (*Tenterden Union* v. *St. Mary, Islington*, 47 L. J. M. C. 81; 38 L. T. 485).

The provisions in the section relating to settlements do not apply to any pauper removed before the passing of the Act, or in receipt of non-resident relief lawfully given, or in respect of whom any order of removal was pending at the passing of the Act (see sect. 36, *post;* and *Brighton Union* v. *Strand Union*, [1891] 2 Q. B. 156; 60 L. J. M. C. 105; 64 L. T. 722; 39 W. R. 581; 55 J. P. 743).

General interpretation of the section.

The general effect of this section was determined by the House of Lords in the case of *Reigate Union* v. *Croydon Union* (14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580), to be as follows:—

(1) To reserve to married women whether during marriage or in viduity, the same right to their husband's settlement which they had under the law existing at the time when this Act was passed. Thus the cases which had decided that the use of the word "wife" in the first exception implied that a "widow" no longer took a settlement from her husband, but lost it immediately on his decease, and reverted to her maiden settlement, were wrongly decided (these cases are *Maidstone Union* v. *Holborn Union*, 17 Q. B. D. 817; 56 L. J. M. C. 91; and *Kingsbridge Union* v. *East Stonehouse*, 18 Q. B. D. 528; 56 L. J. M. C. 83); and the correct view was that the marriage settlement of a widow was that which she took, not as a widow from her dead husband, but as a wife from her living husband; or in other words, that the settlement which she retained after his death was one derived by a wife from a husband, and, therefore, within the precise words of the exception:

(2) To fix absolutely the age of sixteen as the period of

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otherwise, except in the case of a wife from her husband, and in the case of a child under the age of sixteen, which child

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emancipation in all questions regarding the settlement of legitimate children, as had already been done in the case of illegitimate, without regard to their physical or mental capacity:

(3) To give to bastards the privilege enjoyed by lawful children of retaining their parentage settlement after emancipation until the acquisition of a new settlement; in this respect altering what had been decided to be the law in *Bodenham* v. *St. Andrew, Worcester* (1 E. & B. 465), viz., that a bastard only retained its mother's settlement until sixteen, and after that age was removable to the parish of its birth:

(4) In all cases where the parents' settlement was itself derivative, to throw children of either class as soon as they attain the age of sixteen upon their own birth settlement until they acquire another. The provisions of the third clause, of which this is the effect, have, however, no application to children under the age of sixteen, and do not qualify the preceding enactment of the section to the effect that a legitimate, or that of 4 & 5 Will. 4, c. 76, s. 71, to the effect that an illegitimate child shall continue to retain its parentage settlement until it has reached that age:

(5) Subject to the above provisions and limitations to reserve to children the same rights in relation to parentage settlement as they possessed under the then existing law; and

(6) To abolish all other kinds and forms of derivative settlement.

In accordance with these principles it was, therefore, decided in the three cases which were argued together before the House of Lords as follows:—

The father of a pauper under the age of sixteen acquired a settlement within the Croydon Union after 1876, which he retained until his death in 1881. The widowed mother had before her marriage a maiden settlement, which was a birth settlement, within the Reigate Union. She had not acquired any fresh settlement since her husband's death. *Held* that both the widowed mother and the pauper retained the settlement of the pauper's father within the Croydon Union (*Reigate Union* v. *Croydon Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580).

A female pauper was born in 1861 in Wanborough, her father's birth parish, within the Highworth and Swindon Union. She removed with her father in 1862 to the parish of Rhydgwern, in the Newport Union, where she resided with him until his death in 1868. The mother married again, and the pauper continued to reside with her mother in Rhydgwern, and was in receipt of relief from the Newport Union from 1880 until 1885, when she went with her mother to reside in the parish of Adsett, in the Westbury-on-Severn Union, to which she became chargeable in 1886. An order having been obtained by the Westbury-on-Severn Union for the removal of the pauper to the Highworth and Swindon Union, on the ground that the parish of Wanborough within that union was the birth-place and last legal settlement both of the pauper and her father: held that the order was wrong, that the pauper having, by her residence under the age of sixteen, coupled with her residence over that age, resided for the term of three years in the parish of Rhydgwern in such manner as during each of such years to be

shall take the settlement of its father or of its widowed mother, as the case may be, up to that age, and shall retain the settlement so taken until it shall acquire another. Sect. 35.

An illegitimate child shall retain the settlement of its mother until such child acquires another settlement.

If any child in this section mentioned shall not have acquired

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irremovable, had thereby acquired a statutory settlement in that parish in accordance with sect. 34 of 39 & 40 Vict. c. 61, and that this result was not affected by any of the provisions of sect. 35 (*Highworth and Swindon Union* v. *Westbury-on-Severn Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580). Sect. 35. Note.

The husband of a pauper had resided in a parish within the Medway Union for more than three years before his death, and thereby acquired a settlement. After his death his widow continued to reside with her children in the same parish for three months. She and her three children, all under six years of age, subsequently became chargeable to the Bedminster Union. *Held* that the widow and children were rightly removed to the Medway Union, not on the ground that the widow had acquired an original settlement by residence in that union, but on the ground that her husband had at the time of his death a settlement in that union, and that his widow and children took that settlement under sect. 35 of 39 & 40 Vict. c. 61 (*Medway Union* v. *Bedminster Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580).

Where the inquiry is as to the settlement of a pauper above the age of sixteen, the general rule is that unless the pauper has acquired a settlement in his own right, his settlement will be that derived from his father or widowed mother, as the case may be: and if the parent has never acquired a settlement in his or her own right, but his or her place of birth is known, and no evidence is forthcoming to show that the parent had a derived settlement, the pauper will take the birth settlement of the parent (*Liverpool Guardians* v. *Portsea Union*, 12 Q. B. D. 303; 53 L. J. M. C. 58; 50 L. T. 296; 32 W. R. 494; 48 J. P. 406). But if it is shown that the parent had a derived settlement which superseded his or her birth settlement, the pauper must then be deemed to be settled in the parish in which such pauper was himself born. Thus, although the last clause of sect. 35 of 39 & 40 Vict. c. 61, was enacted to prevent inquiry into derivative settlements, such inquiry is permissible, and evidence is admissible, to repel the presumption of a birth settlement, and to show that the settlement of the parent of the pauper was not an original but a derivative settlement, but no farther. As soon as that is done, the pauper must be adjudged to be settled in his own place of birth, and the inquiry into the parent's settlement must be stopped (*Woodstock Union* v. *St. Pancras*, 4 Q. B. D. 1; 48 L. J. M. C. 1; 39 L. T. 256; 27 W. R. 229). As to the extent to which the inquiry may be carried, see *R.* v. *St. Marylebone Guardians* (13 Q. B. D. 15; 53 L. J. M. C. 38; 50 L. T. 442; 48 J. P. 566), and *Headington Union* v. *St. Olave's Union* (13 Q. B. D. 293; 53 L. J. M. C. 91; 50 L. T. 444; 32 W. R. 738; 48 J. P. 647), the decisions in which, although now overruled on the ground that the third clause of sect. 35 does not apply to children under sixteen, are applicable to cases of paupers above sixteen; Persons above sixteen.

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Sect. 35. and *Plymouth Union* v. *Axminster Union*, [1898] A. C. 586, *infra*, where the pauper was illegitimate.

Note. It is immaterial what the age (above sixteen) of a pauper, whose settlement is being inquired into, may be, but unless such person has since the age of sixteen acquired a settlement for himself, he retains the derivative settlement, if any, which he had from his father at the age of sixteen. Thus, a female pauper had married above the age of sixteen, and had been deserted by her husband, who was a native of Africa, and never had a settlement; when the pauper attained the age of sixteen her father was alive and had a settlement. It was held that the pauper retained the derivative settlement she had taken from her father when under the age of sixteen (*Dorchester Union* v. *Poplar Union*, 21 Q. B. D. 88; 57 L. J. M. C. 78; 59 L. T. 687; 36 W. R. 706; 52 J. P. 435; overruling *Edmonton Union* v. *St. Mary, Islington*, 15 Q. B. D. 339; 54 L. J. M. C. 146; and agreeing with *St. Pancras Union* v. *Norwich Union*, 18 Q. B. D. 521; 56 L. J. M. C. 37; 56 L. T. 311; 35 W. R. 547; 51 J. P. 343, where the facts were as follows: A legitimate son left the parish of his birth and went with his father into another parish, where the father resided and acquired a settlement while the son was under sixteen, and where the son resided with his father until he was over sixteen. Afterwards they left that parish, and the son became chargeable as a pauper. On appeal against an order adjudging the pauper to be settled in the parish of his birth, it was held that the pauper while under the age of sixteen had acquired a derivative settlement from his father in the parish in which they had resided, and that, not having afterwards acquired any other settlement, he retained such derivative settlement, and the order must be quashed.

The settlement which a child is to retain after the age of sixteen is the settlement derived from its parent, which it had "the moment before the clock struck the hour which made it sixteen." This derivative settlement is no longer subject to change with the parent's settlement, as it had been before the age of sixteen, but the child retains it, whatever the parent may do, until the acquisition of another settlement by the child itself. On the other hand, so long as the child, although above the age of sixteen, lives with its parent as part of his family, and has not acquired any new settlement in its own right but retains the settlement derived from the parent, he or she is not removable from any parish from which the parent is not removable. Thus a girl born on February 29th, 1872, lived with its father in the Mitford Union, where the father was settled, until October 11th, 1887. The father and all his family then removed into the Wayland Union and had ever since resided there. On August 13th, 1888, the girl while still living with its father as part of the family, became chargeable to the Wayland Union, and on October 24th, 1888, an order was made to remove the child to the Mitford Union; it was held that the settlement which the girl took on arriving at the age of sixteen was in the Mitford Union, in which the father was then settled, but that notwithstanding sect. 35 of 39 & 40 Vict. c. 61, the proviso of sect. 1 of 11 & 12 Vict. c. 111, applied, and that as the father had by a year's residence become irremovable from the Wayland Union, the child was also not removable (*Mitford Union* v. *Wayland Union*,

settlement such child or female derived from the parent without inquiring into the derivative settlement of such parent, such

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25 Q. B. D. 164; 59 L. J. M. C. 86; 63 L. T. 299; 38 W. R. 632; 54 J. P. 757).

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Note.

Wife or widow.

A wife takes the settlement (if any) of her husband whether that settlement is an original or a derivative settlement. In determining the settlement of a pauper, a married woman deserted by her husband, it appeared that the husband had never acquired a settlement for himself, but the birth settlement of the husband and of the husband's father were proved. It was held that the place of settlement of the pauper's husband was the place of his father's birth, and not his own birthplace, and that the wife must therefore be adjudged to be settled in the birthplace of her husband's father, and not in the birthplace of her husband (*West Ham Union* v. *St. Giles-in-the-Fields*, 25 Q. B. D. 272; 59 L. J. M. C. 144; 63 L. T. 496; 38 W. R. 736; 54 J. P. 520). This decision is in direct antagonism to the decision of the Court of Appeal in *Reg.*, or *Madeley Union* v. *Bridgnorth Union* (11 Q. B. D. 314; 52 L. J. M. C. 71; 48 L. T. 600; 31 W. R. 938; 47 J. P. 452), where the facts were as follows: An order for the removal of a pauper wife and her three children, all under six years of age, on the ground that the settlement of her husband was the birth settlement of his father within the union to which the removal was made, having been made and appealed against; the birth settlement of the husband's father in such union was proved, but no other settlement either of the husband or of his father being set up, the order was quashed by quarter sessions and held on appeal to be rightly quashed on the ground that evidence of the settlement of the husband's father was inadmissible and could not be acted upon in making the order of removal, as it went to prove the derivative settlement of the parent of the children contrary to sect. 35 of 39 & 40 Vict. c. 61; Brett, M.R., remarking that "you could not go beyond the husband or father of the person to be removed; you could never go to the father of the husband, or the grandfather of the child." That case was, however, treated as overruled by the case of *Reigate Union* v. *Croydon Union*, *supra*, and must be now considered to be overruled, and the law to be that laid down as above in *West Ham Union* v. *St. Giles-in-the-Fields*.

The wife of a man who had, while under the age of sixteen, and before the passing of 39 & 40 Vict. c. 61, derived a settlement from his father, was adjudged to take this derivative settlement of her husband and not his birth settlement (*Great Yarmouth* v. *City of London*, 3 Q. B. D. 232; 47 L. J. M. C. 61; 37 L. T. 712; 26 W. R. 283; 42 J. P. 69). But a widow who had acquired no settlement in her own right since her husband's death, and whose husband never had acquired a settlement for himself, and was not shown to have derived any settlement, was adjudged to be settled in the place of her husband's birth, and her children by such husband took the same settlement (*Liverpool Guardians* v. *Portsea Union*, 12 Q. B. D. 303; 53 L. J. M. C. 58; 50 L. T. 296; 32 W. R. 494; 48 J. P. 406).

Children under sixteen.

It is only while a child is under the age of sixteen that it is capable of deriving a settlement from its father or widowed mother; any settlement acquired by the parents after the child attains sixteen is not communicated to the child, but the child retains the derivative settlement it had when it attained sixteen until it acquires another. If a father, who has a settlement, dies leaving a widow

Sect. 35. child or female shall be deemed to be settled in the parish in which he or she was born.

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and a child, the child retains its father's settlement until the age of sixteen, unless the mother in the interval, whilst a widow, acquires a settlement in her own right, in which case the child takes that settlement up to sixteen. Whichever settlement the child had on the day on which it attained the age of sixteen, is the settlement which it will retain until it acquires another (*per* Lopes, L.J., in *Highworth and Swindon Union* v. *Westbury-on-Severn Union*, 20 Q. B. D., p. 604, assented to by House of Lords, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580).

The words in this section, "or of its widowed mother as the case may be," do not amount to a declaration that the child must, on its father's death, at once shift to the maiden settlement of its mother. They refer to the rule that after the death of the father, unemancipated children, *i.e.*, children under the age of sixteen, take the benefit of any primary settlement which their widowed mother may acquire for herself (*per* Lord Watson, in *Reigate Union* v. *Croydon Union*, 14 App. Cas. 465, *supra*). The settlement, however, which the widowed mother may take on making a second marriage is not a primary or original settlement, and is not therefore communicated to the children of her former marriage, who retain the settlement which they derived from their father (*Llanelly Union* v. *Neath Union*, [1893] 2 Q. B. 38; 62 L. J. M. C. 112; 69 L. T. 194; 57 J. P. 694; *Keynsham Union* v. *Bedminster Union*, 3 Q. B. D. 344; 47 L. J. M. C. 73; 38 L. T. 507; 26 W. R. 591; *Highworth and Swindon Union* v. *Westbury-on-Severn Union*, *per* Lopes, L.J., 20 Q. B. D., p. 605, *supra*; *Amersham Union* v. *City of London Union*, 20 Q. B. D. 103; 57 L. J. M. C. 6; 58 L. T. 83; 36 W. R. 141; 52 J. P. 404), though in this last case the judgment of the court proceeded on the ground that the third clause of this section applied to children under sixteen, which is at variance with the judgment of the House of Lords in *Reigate Union* v. *Croydon Union*, 14 App. Cas. 465, *supra*.

The provisions of the third clause of this section prohibiting inquiry into the derivative settlement of a parent, have no application to cases where it is required to adjudicate on the settlement of children under the age of sixteen. In determining, therefore, the settlement of a pauper child under sixteen, where the settlement of its deceased father could not be ascertained, and it could not be shown what settlement the child derived from its widowed mother without inquiring into the mother's derivative settlement, it was held that such inquiry was not prohibited; that the mother had derived a settlement from her father, which superseded the mother's birth settlement, and that the pauper should be adjudged to have the mother's derivative settlement and not the mother's birth settlement (*West Derby Union* v. *Atcham Union*, 24 Q. B. D. 117; 57 L. J. M. C. 17; 38 W. R. 361; 54 J. P. 485).

Where the settlement of a widowed mother and her children under the age of sixteen was the subject of inquiry, the children were adjudged to have the same settlement as their widowed mother, who took her husband's settlement notwithstanding that such settlement was a derivative settlement ascertained by inquiry into the settlement which her husband had derived from his father (*Hollingbourne Union* v. *West Ham Union*, 6 Q. B. D. 580; 50

L. J. M. C. 74; 44 L. T. 520; 29 W. R. 629; 45 J. P. 634; and see *Liverpool Guardians* v. *Portsea Union*, 12 Q. B. D. 303, *supra*).

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Note.

The following case relative to the settlement of legitimate children under the age of sixteen, must now be considered as overruled by the decision in *Reigate Union* v. *Croydon Union*, 14 App. Cas. 465, *supra*. In *Headington Union* v. *St. Olave's Union* (13 Q. B. D. 293; 53 L. J. M. C. 91; 50 L. T. 444; 32 W. R. 738; 48 J. P. 647), the Court of Appeal held that a legitimate child under sixteen was settled in its place of birth when the facts were as follows: The pauper's father was dead, and it had been deserted by its mother; neither the father nor the widowed mother had acquired a settlement in his or her own right; the place of the father's birth was known, but the father was shown to have derived a settlement from his father. The court upon these facts held that the third clause of sect. 35 applied, and it having been shown that the settlement of the child's father was a derivative settlement, the child must be deemed to be settled in its place of birth.

Illegitimate persons.

By this section, the position of illegitimate children is assimilated to that of legitimate children, so that an illegitimate child cannot, any more than a legitimate child, acquire for itself a settlement while under the age of sixteen, but must follow the settlement of its mother, even if it is abandoned by its mother (*Manchester Overseers* v. *Ormskirk Union*, 24 Q. B. D. 678; 57 L. J. M. C. 103; 62 L. T. 661; 38 W. R. 778; 54 J. P. 487).

The pauper, an illegitimate child, was born in 1887 in the Milton Union, in which her mother had acquired a settlement. In 1889 the mother married a man whose settlement was in the Maidstone Union. The pauper resided in the Milton Union from 1890 to 1896, when she became chargeable; it was held by the Kent Quarter Sessions that the pauper was legally settled in the Maidstone Union (*Maidstone Union* v. *Milton Union*, 60 J. P. 713).

The third clause of this section applies equally to illegitimate as to legitimate persons. Thus, on inquiry as to the place of settlement of an illegitimate female pauper, aged twenty, it was proved that the pauper was born in Plymouth, and the pauper's mother in Stockland, and that neither of them had acquired a settlement of her own. Facts were proved upon which the court held that the father of the pauper's mother had a settlement and that the pauper's mother derived a settlement from him, but did not make the necessary inquiries to ascertain what that settlement was, and adjudged that the pauper's settlement was in Plymouth, where she was born. *Held* that the adjudication was right; that the case came within the third clause of sect. 35 of 39 & 40 Vict. c. 61, and that since it could not be shown what settlement the pauper derived from her mother without inquiring into the derivative settlement of the mother, the pauper must be deemed to be settled in the parish where she was born (*Plymouth Union* v. *Axminster Union*, [1898] A. C. 586).

Before the year 1889, it was decided in the following cases that an illegitimate child under the age of sixteen did not take and follow the settlement of its mother when that settlement was a derivative settlement acquired by the mother either from the mother's parents or from the marriage of the mother since the birth of the child (*Manchester Overseers* v. *St. Pancras Union*, 4 Q. B. D. 409; 41 L. T. 218; 27 W. R. 885; *Reg.*, or *Fulham Union* v. *Portsea Union*, 7 Q. B. D. 384; 50 L. J. M. C. 144; *St. Marylebone Union* v. *Wycombe*

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Proviso for pending orders of removal.

XXXVI. The provisions relating to settlement shall not apply to any pauper removed under any order of removal, or without such order under the provision in that behalf contained in the Union Chargeability Act, 1865, before the passing of this Act, or in receipt of non-resident relief lawfully given, or in respect of whom any order of removal shall be pending at the passing of this Act.

Rates made by overseers not now audited made

XXXVII. . . . When an overseer shall make and levy any rate or assessment which is not now subject to be audited by the district auditor, or by any auditor or auditors appointed under

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Note.

Union, or *Reg.* v. *St. Marylebone*, 13 Q. B. D. 15; 53 L. J. M. C. 88; 50 L. T. 442; 48 J. P. 566; *Northwich Union* v. *St. Pancras Union*, 22 Q. B. D. 164; 58 L. J. M. C. 73; 60 L. T. 444; 37 W. R. 206; 53 J. P. 196). These cases were all decided upon the ground that when inquiry was being made into the settlement of a child under sixteen, whether legitimate or illegitimate, the third clause of sect. 35 of 39 & 40 Vict. c. 61, forbade inquiring into the derivative settlement of the parent, and provided that if it could not be shown what settlement such child derived from the parent without inquiring into the derivative settlement of such parent, such child should be deemed to be settled in the parish in which he or she was born. In 1889, however, the House of Lords, in the case of *Reigate Union* v. *Croydon Union* (14 App. Cas. 465, *supra*), held that the third clause of this section had no application whatever to children under the age of sixteen; and from the interpretation placed upon that judgment in the case of *West Derby Union* v. *Atcham Union* (24 Q. B. D. 117; 57 L. J. M. C. 17; 38 W. R. 361; 54 J. P. 485), the above cited cases must be considered as overruled, and the law to be established that an illegitimate child under sixteen takes and follows the settlement of its mother, whether the settlement of the mother is an original or derivative settlement.

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Note.

The provision in the Union Chargeability Act, 1865, is contained in sect. 6 of 28 & 29 Vict. c. 79.

A pauper had been removed from Brighton to Brockley in 1866, and had returned to Brighton in 1870 and resided in Brighton in service until 1881, and then went to Paris to reside, and afterwards became chargeable to the Strand Union: it was held that notwithstanding the order of removal in 1866 the pauper had acquired a settlement by residence in Brighton under sect. 34, and was therefore removable to the Brighton Union (*Brighton Union* v. *Strand Union*, [1891] 2 Q. B. 156; 60 L. J. M. C. 105; 64 L. T. 722; 39 W. R. 581; 55 J. P. 743).

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Note.

A general order dated March 20th, 1879, was issued by the Local Government Board regulating the mode of keeping and audit of these accounts.

As instances of rates brought within the scope of this section may be cited (1) lighting and watching rate, 3 & 4 Will. 4, c. 90, ss. 9, 33; (2) borough or watch pound rate, 7 Will. 4 & 1 Vict. c. 81, s. 1; 2 & 3 Vict. c. 28, ss. 1, 2; 22 & 23 Vict. c. 32, ss. 5, 6; (3) burial board rate, 18 & 19 Vict. c. 128, s. 13; (4) South Wales

or by virtue of the Metropolis Local Management Act, such rate or assessment, and the accounts relating thereto, shall be submitted by him, and by the collector thereof, if any, to the said auditor, in the like manner, and with the like incidents, consequences, liabilities, and power of appeal as in the case of a poor rate made by such overseer; and every other audit of such rate or assessment, if any, shall cease.

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subject to the audit of district auditor.

And the Local Government Board shall have the same power to make orders to regulate the keeping of such accounts as they have in regard to other local rates.

XXXVIII. When an auditor shall have allowed, disallowed, or surcharged a sum in any account rendered to him jointly, and an appeal shall be made against the same, the decision of the auditor may be reversed by the court or the Local Government Board, as the case may be, and the disallowance or surcharge may be remitted by the said board in favour of one or more of the persons appealing only without discharging the other person or persons against whom such decision of the auditor was pronounced.

Auditor's decision upon a joint account may be reversed or remitted in favour of one or some only of the parties.

XXXIX. No statement by an owner pursuant to the Act of the seventh and eighth years of Victoria, chapter one hundred and one, section fifteen, shall be valid, or shall entitle him to be placed in the registry of owners entitled to vote for the guardians of the poor of any parish, unless such statement contain an address for service within the parish in respect of which such

Statement by owner pursuant to statute 7 & 8 Vict. c. 101, s. 15.

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highway rates, 23 & 24 Vict. c. 68, s. 22; (5) school board rate, 33 & 34 Vict. c. 75, s. 54.

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Note.

An appeal against an allowance or surcharge by a district auditor in respect of a poor rate lies by *certiorari* to the High Court of Justice under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 35, 36; or to the Local Government Board under the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 4.

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Note.

The High Court has no power in proceedings by *certiorari* to do more than simply quash the allowance, disallowance or surcharge, or uphold the decision of the auditor. Under the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 4, however, the Local Government Board may, on equitable grounds, remit a surcharge or disallowance that was properly made by the auditor.

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Note.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 8, overseers may from time to time make fresh registers of owners who have claimed to vote for guardians. Now by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 20 (3), the electors of guardians are the parochial electors, who by sect. 2 (1) are the persons registered in such portion either of the local government register of electors or of the Parliamentary register of electors as relates to the parish.

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owner shall claim to vote, and all voting papers and notices left at such address shall be deemed to be sufficiently served on such owner: provided that such owner may, as and when he sees fit, change such address, and if he give notice in writing of such change, the same shall be substituted in the register of owners and dealt with accordingly.

Metropolitan Provisions.

Explanation of the Metropolitan Poor Act as to the power to form districts for all classes of poor.

XL. Whereas doubts have been entertained as to the extent of the powers given to the Poor Law Board by sections five and six of the Metropolitan Poor Act, 1867, it is hereby enacted and declared that those powers may be exercised by the Local Government Board in order to the provision of asylums, workhouses, or other buildings for the reception of any class or classes of the poor chargeable in the metropolis.

Extension of power of determining or varying contracts given by 30 & 31 Vict. c. 6, s. 59.

XLI. The powers conferred upon the Poor Law Board by section fifty-nine of the Metropolitan Poor Act, 1867, to determine or vary the contracts with any medical or other workhouse officers existing at the passing of that Act, may be exercised by the Local Government Board for the purpose of improving the classification of all classes of paupers in addition to the purposes in the said section specified, and with reference to the contract with or the appointment of any officer appointed by a board of guardians irrespective of the date of the appointment or contract.

Power of managers in respect of patients not paupers.

XLII. If the managers of a district constituted under the provisions of the Metropolitan Poor Acts shall have admitted any sick person into their asylum not being a pauper, but under circumstances of urgency, they shall have and may exercise the like powers over such person, and shall have the like remedies for the recovery of all reasonable charges incurred on behalf of any such person as are conferred by the Poor Law Acts upon guardians over paupers, and for the recovery of relief given or deemed to be given by way of loan to any such pauper.

But the said powers and remedies shall not be exercised or put in force by the managers until they shall have been

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Note.

By the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 80, the metropolitan asylum managers may admit persons into a hospital who are not paupers, and are suffering from fever, small-pox, or diphtheria.

The enactments regulating the recovery of relief given by way of loan are the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 58, 59, and the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 8.

The expenses which are the subject of a separate charge to a union or parish are designated in sect. 32 of the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6).

authorized to do so by the Local Government Board, and shall be exercised subject to any restrictions which may be imposed from time to time by the board. Sect. 42.

Provided also, that no sum shall be recoverable by managers under the provisions of this Act in respect of any expenses incurred by them other than those which shall be the subject of a separate charge in respect of an inmate to any union or parish in the district.

The exemption of the Inns of Court and the Charterhouse removed.

XLIII. [*So much of the twentieth Victoria, chapter nineteen, section three, as provides that the Inner Temple, the Middle Temple, Gray's Inn, and the Charterhouse, London, shall not be added to any union or other district for the purposes therein referred to, shall be repealed.*

Provided, that] no such Inn of Court shall be added to a union or parish so long as the benchers thereof shall make payments, as regards the Inner Temple and the Middle Temple to the guardians of the poor of the City of London Union, and as regards Gray's Inn to the guardians of the poor of the Holborn Union, of such sum as shall be called for by such guardians respectively as a contribution in aid of the common fund of such unions upon a precept framed according to the form set forth in the schedule hereto annexed, or to the like effect, which sum, together with the costs of collection, shall, when the masters of the bench of any Inn think proper, be paid out of a rate in the nature of a poor rate to be made and levied by the overseer or overseers of the said Inn, as in the case of a poor rate made and levied in any other parish.

Such contribution shall be based upon the annual rateable value of the said Inn as settled by the valuation list in force for the time being, if any, or otherwise as settled by the Local Government Board for its contribution to the metropolitan poor fund, and shall be calculated and issued in every respect as if the said Inn were a parish comprised in the said union, but so nevertheless that such contribution shall not include any sum, whether for principal or interest, in respect of repayment of monies borrowed and charged on the poor rates of the parishes comprised in the said union or on the common fund thereof.

Provided that the contribution of the respective unions

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The words in italics are repealed by the S. L. R. Acts, 1894 and 1897.

For the provisions as to the collection of contributions to the metropolitan common poor fund payable in respect of places where there is no poor rate, see the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), ss. 66—68.

It is specially provided by the Poor Law Act, 1879 (42 & 43 Vict. c. 54), s. 19, that nothing in that Act shall repeal, alter, or affect any of the provisions of this section.

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towards such metropolitan poor fund shall be calculated upon the annual rateable value of such unions increased by the annual rateable value of the Inn or Inns contributing thereto as aforesaid, and the provisions of the Metropolitan Poor Act, 1867, applicable to any such Inn of Court, shall cease to operate so long as the contributions herein described are paid in respect of such Inn: provided, also, that the registrar of the Charterhouse shall cease to be the overseer of the parish of the Charterhouse, and the justices of the peace having jurisdiction in the place shall forthwith appoint an overseer to act for the said parish until the time of the next annual appointment of overseers; and thenceforth appointments shall be made as in the case of other parishes; and every such overseer shall have all the powers and privileges and shall be subject to all the duties which by law attach to such an officer.

Interpretation clause.

XLIV. The words herein contained shall be construed as in the Poor Law Amendment Act, 1834, and in the Acts amending or extending the same, and the provisions contained therein and not repealed shall, so far as they shall be consistent herewith, be extended to this Act.

The word "pauper" in the statute of the thirty-fourth and thirty-fifth years of Her present Majesty, chapter one hundred and eight, section seven (sub-section five), shall include any person who shall obtain relief by wilfully giving a false name, or making a false statement, and such person may be proceeded against as an idle and disorderly person at any time while he continues to receive such relief.

Short title.

XLV. This Act may be cited and described for all purposes as "The Divided Parishes and Poor Law Amendment Act, 1876."

SCHEDULE.

Precept for a Contribution from an Inn of Court.

To the benchers of

You are hereby required to pay to of the treasurer of the guardians of the poor of the union, on behalf of such guardians, on the day of , the sum of pounds shillings and pence, as the contribution of the above-named Inn of Court in aid of the common fund of the said union, such amount having been duly calculated according to the provisions of the Divided Parishes and

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Note.

For interpretation clause, see 4 & 5 Will. 4, c. 76, s. 109. For extension of the meaning of "pauper," see the Casual Poor Act, 1882 (45 & 46 Vict. c. 36), s. 5.

Poor Law Amendment Act, 1876, and to take the receipt of the said treasurer indorsed upon this paper for the said sum of Schedule.

Given under our hands at a meeting of the guardians of the poor of the said union held on the day of .

(Signed) *X. Y.*, Presiding Chairman.
W. X., *U. V.* } Guardians.

Countersignature of the Clerk to the Guardians.

Indorsement.

Received this day of 18 of the within named benchers the sum of on behalf of the within named guardians.

Treasurer of the Union.

ELEMENTARY EDUCATION ACT, 1876.

39 & 40 VICT. CHAP. 79.

An Act to make further provision for Elementary Education.
[15th August, 1876.]

[Preamble repealed by the S. L. R. Act, 1894.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

I. This Act may be cited as the "Elementary Education Act, 1876." Short title.

II. This Act shall not, save as otherwise expressly provided, apply to Scotland or Ireland. Extent of Act.

[Sect. 3. *Commencement of Act:* Repealed by the S. L. R. Act, 1894.]

PART I.

Law as to Employment and Education of Children.

IV. It shall be the duty of the parent of every child to cause such child to receive efficient elementary instruction in Declaration of duty of parent to educate child.

For meaning of "parent" see the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 3. Sect. 4.

For the duties of parents of defective or epileptic children to Note.

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reading, writing, and arithmetic, and if such parent fail to perform such duty, he shall be liable to such orders and penalties as are provided by this Act.

Regulation as to employment of child under ten, and certificate of education or previous school attendance being condition of employment of child over ten.

V. A person shall not . . . take into his employment (except as herein-after in this Act mentioned) any child—

(1) Who is under the age of [*ten*] years; or

(2) Who, being of the age of [*ten*] years or upwards, has not obtained such certificate either of his proficiency in reading, writing, and elementary arithmetic, or of previous due attendance at a certified efficient school, as is in this Act in that behalf mentioned, unless such child, being of the age of [*ten*] years or upwards, is employed, and is attending school in accordance with the provisions of the Factory Acts, or of any bye-law of the local authority (herein-after mentioned) made under section seventy-four of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1873, and this Act, and sanctioned by the Education Department.

Penalty for employing a child in contravention of Act.

VI. Every person who takes a child into his employment in contravention of this Act shall be liable, on summary conviction, to a penalty not exceeding forty shillings.

Enforcement of Act by school board or school attendance committee of existing local authority or

VII. The provisions of this Act respecting the employment of children shall be enforced—

(1) In a school district within the jurisdiction of a school board, by that board; and

(2) In every other school district by a committee (in this

Sect. 4. Note.

provide elementary education for such children, see the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), s. 4.

Sect. 5. Note.

By the Elementary Education (School Attendance) Act, 1893 (56 & 57 Vict. c. 51), s. 1, the word "eleven" is to be substituted for the word "ten" in this section.

By the Factory and Workshop Act, 1891 (54 & 55 Vict. c. 75), s. 18, no child under the age of eleven years shall be employed in a factory or workshop.

Sect. 7. Note.

A proviso to the first clause of this section that in the case of a committee appointed by guardians one-third should consist of *ex-officio* guardians, was repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73).

See schedule II., *post*, for the rules as to appointment, &c., of a committee by guardians. The proceedings of school attendance committees are regulated by an order of the Local Government Board, dated April 14th, 1877.

Act referred to as a school attendance committee) appointed annually, if it is a borough, by the council of the borough, and, if it is a parish, by the guardians of the union comprising such parish.

Sect. 7. by inspectors of factories or mines.

A school attendance committee under this section may consist of not less than six nor more than twelve members of the council or guardians appointing the committee. . . .

Every such school board and school attendance committee (in this Act referred to as the local authority) shall, as soon as may be, publish the provisions of this Act within their jurisdiction in such manner as they think best calculated for making those provisions known.

Provided that it shall be the duty of the inspectors and sub-inspectors acting under the Acts regulating factories, workshops, and mines respectively, and not of the local authority, to enforce the observance by the employers of children in such factories, workshops, and mines of the provisions of this Act respecting the employment of children; but it shall be the duty of the local authority to assist the said inspectors and sub-inspectors in the performance of their duty by information and otherwise.

It shall be the duty of such local authority to report to the Education Department any infraction of the provisions of section seven of the Elementary Education Act, 1870, in any public elementary school within their district which may come to their knowledge, and also to forward to the Education Department any complaint which they may receive of the infraction of those provisions.

[Sect. 8. *Employment and education of children in factories, &c.:* Repealed by the Factory and Workshop Act, 1878 (41 & 42 Vict. c. 16). The provisions regulating the employment of children in factories and workshops will be found in that Act, sects. 23—26, 68, 83, 84, 95 and 96; the Factory and Workshop Act, 1891 (54 & 55 Vict. c. 75), ss. 18, 20; and the Factory and Workshop Act, 1895 (58 & 59 Vict. c. 37), ss. 16, 22.]

IX. A person shall not be deemed to have taken any child into his employment contrary to the provisions of this Act, if it is proved to the satisfaction of the court having cognizance of the case either—

Exception to prohibition of employment of children.

(1) That during the employment there is not within two miles, measured according to the nearest road, from the residence of such child any public elementary school open which the child can attend; or

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See the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), s. 4, for penalty on taking into employment any child under age who has not obtained a certificate of proficiency.

Sect. 9. Note.

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(2) That such employment, by reason of being during the school holidays, or during the hours during which the school is not open, or otherwise, does not interfere with the efficient elementary instruction of such child and that the child obtains such instruction by regular attendance for full time at a certified efficient school or in some other equally efficient manner; or

(3) That the employment is exempted by the notice of the local authority herein-after next mentioned; (that is to say,)

The local authority may, if it thinks fit, issue a notice exempting from the prohibitions and restrictions of this Act the employment of children above the age of eight years, for the necessary operations of husbandry and the ingathering of crops, for the period to be named in such notice: Provided that the period or periods so named by any such local authority shall not exceed in the whole six weeks between the first day of January and the thirty-first day of December in any year.

The local authority shall cause a copy of every notice so issued to be sent to the Education Department and to the overseers of every parish within its jurisdiction, and the overseers shall cause such notice to be affixed to the door of all churches and chapels in the parish, and the local authority may further advertise any such notice in such manner (if any) as it may think fit.

Payment of school fees for poor parents.

X. The parent, not being a pauper, of any child who is unable by reason of poverty to pay the ordinary fee for such

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The final clause of this section which repealed sect. 25 of 33 & 34 Vict. c. 75, was repealed by the S. L. R. Act, 1883.

Note.

By an order of the Local Government Board, dated September 5th, 1877, guardians may authorize the relief committees appointed by them to deal with applications under this section; and by another order of the same date, guardians may authorize district relief committees to examine and report upon such applications.

By an order of the Local Government Board, dated January 9th, 1878, fees paid by the guardians under this section may be given by way of loan to the parent, and be recoverable in accordance with the provisions of the Poor Law Acts, applicable to the recovery of other relief given on loan.

The effect of the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), is to render unnecessary the payment of any fee at many elementary schools. In such cases the guardians will have no duties under this section, but their duties remain the same as before the passing of that Act, when a child cannot attend the elementary school selected by its parent without payment of a fee.

For provisions with regard to *pauper* children, see sect. 40, *post*, and the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), s. 5.

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child at a public elementary school, or any part of such fee, may apply to the guardians having jurisdiction in the parish in which he resides ; and it shall be the duty of such guardians, if satisfied of such inability, to pay the said fee, not exceeding threepence a week, or such part thereof, as he is, in the opinion of the guardians, so unable to pay.

The parent shall not by reason of any payment made under this section be deprived of any franchise, right, or privilege, or be subject to any disability or disqualification.

Payment under this section shall not be made on condition of the child attending any public elementary school other than such as may be selected by the parent, nor refused because the child attends, or does not attend any particular public elementary school.

* * * * *

Provision as to order of court for attendance at school of child habitually neglected by

XI. If either—

(1) The parent of any child above the age of five years who is under this Act prohibited from being taken into full time employment, habitually and without reasonable excuse neglects to provide efficient elementary instruction for his child ; or

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Sect. 11. Note.

For the application of this section to deaf and dumb and blind children, see the Elementary Education (Blind and Deaf Children) Act, 1893, ss. 1, 7.

The words in the first clause of this section "any child who is under this Act prohibited from being taken into full time employment" apply to any child prohibited from being taken into employment by sect. 5, and are not confined to children referred to in sect. 8, now repealed. (*Winyard* v. *Toogood ; Hance* v. *Fortnum*, 10 Q. B. D. 218; 52 L. J. M. C. 25; 48 L. T. 229; 31 W. R. 271; overruling a previous decision to the contrary in *Saunders* v. *Crawford*, 9 Q. B. D. 612; 51 L. J. Q. B. 460; 46 L. T. 420).

When a summons was applied for in 1877 against the parent of a child for not causing it to attend school, contrary to bye-laws made under the Elementary Education Act, 1870, and it appeared that the parent had habitually neglected to provide instruction for the child within the meaning of this section, it was held that the magistrate was entitled, and it was his duty, to refuse to issue a summons under the bye-laws and to require a summons to be taken out under this section, inasmuch as the option given by sect. 50 of this Act, of proceeding either under the statute or under the bye-laws, applied to offences "punishable" under this Act, and the offence of "habitual neglect" was not so punishable (*Ex parte London School Board, Re Murphy*, 2 Q. B. D. 397; 46 L. J. M. C. 193; 36 L. T. 698; *Morgan* v. *Haycock*, 44 J. P. 199). But now, by the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), s. 4, proceedings in such a case can be taken either under this section or under the bye-laws.

The words "willing to receive" the child apply to the whole of the section, and in the absence of selection by a parent it is the

Sect. 11.

parent or habitually wandering and consorting with criminals or disorderly persons.

(2) Any child is found habitually wandering or not under proper control, or in the company of rogues, vagabonds, disorderly persons, or reputed criminals;

it shall be the duty of the local authority, after due warning to the parent of such child, to complain to a court of summary jurisdiction, and such court may, if satisfied of the truth of such complaint, order that the child do attend some certified efficient school willing to receive him and named in the order, being either such as the parent may select, or if he do not select any, then such public elementary school as the court think expedient, and the child shall attend that school every time that the school is open, or in such other regular manner as is specified in the order.

An order under this section is in this Act referred to as an attendance order.

Any of the following reasons shall be a reasonable excuse:

(1) That there is not within two miles, measured according to the nearest road, from the residence of such child any public elementary school open which the child can attend; or

(2) That the absence of the child from school has been caused by sickness or any unavoidable cause.

Proceedings on disobedience to order of

XII. Where an attendance order is not complied with, without any reasonable excuse within the meaning of this Act, a

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Sect. 11. Note.

duty of the local authority to name some public elementary school which is willing to receive the child in respect of whom an attendance order is sought under this section; and if the local authority fail to name such school the justices may decline to make an order (*Thompson* v. *Rose*, 61 L. J. M. C. 26; 65 L. T. 851; 40 W. R. 155).

As to "reasonable excuses," see the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 74.

Sect. 12. Note.

Where an attendance order had been made and served upon the mother of a child, and she was summoned under this section for non-compliance with the order, it was proved that being unable to maintain the child she had sent it to reside elsewhere with an aunt. The magistrate dismissed the summons on the ground that the child was not in the custody or control of the mother, but it was held that in proceedings under this section, the interpretation clause in the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 3, which declares that "parent" shall include "guardian and every person who is liable to maintain, or has the actual custody of the child," does not affect the primary liability of an actual parent, if there be one, and that the mother ought to have been convicted (*School Board for London* v. *Jackson*, 7 Q. B. D. 502; 50 L. J. M. C. 134; 30 W. R. 47).

Where an attendance order had been made and served upon the father of a child, and the father died, it was held that the widow

court of summary jurisdiction, on complaint made by the local authority, may, if it think fit, order as follows:

Sect. 12.
court for attendance at school.

(1) In the first case of non-compliance, if the parent of the child does not appear, or appears and fails to satisfy the court that he has used all reasonable efforts to enforce compliance with the order, the court may impose a penalty not exceeding with the costs five shillings; but if the parent satisfies the court that he has used all reasonable efforts as aforesaid, the court may, without inflicting a penalty, order the child to be sent to a certified day industrial school, or if it appears to the court that there is no such school suitable for the child, then to a certified industrial school; and

(2) In the second or any subsequent case of non-compliance with the order, the court may order the child to be sent to a certified day industrial school, or if it appears to the court that there is no such school suitable for the child then to a certified industrial school, and may further in its discretion inflict any such penalty as aforesaid, or it may for each such non-compliance inflict any such penalty as aforesaid without ordering the child to be sent to an industrial school;

Provided that a complaint under this section with respect to a continuing non-compliance with any attendance order shall not be repeated by the local authority at any less interval than two weeks.

A child shall be sent to a certified industrial school or certified day industrial school in pursuance of this section in like manner as if sent in pursuance of the Industrial Schools 29 & 30 Vict. c. 118.

Sect. 12.
Note.

was not liable to a penalty under this section by reason of non-compliance with the order (*Hance* v. *Fairhurst*, 51 L. J. M. C. 219).

The fact that a father uses every endeavour, short of actually taking his child to school, to ensure his regular attendance, but the child nevertheless habitually plays truant, is not a "reasonable excuse" why the justices should not send the child to an industrial school, although (on the authority of *Belper School Attendance Committee* v. *Bailey*, 9 Q. B. D. 259; 51 L. J. M. C. 91) it would be a "reasonable excuse" why they should not impose a penalty on the father (*Hewett* v. *Thompson*, 58 L. J. M. C. 60; 60 L. T. 268).

Where school fees are payable, an attendance order is not complied with by sending the child to school without the fees (*Saunders* v. *Richardson*, 7 Q. B. D. 388; 50 L. J. M. C. 137; 45 L. T. 319; 29 W. R. 800); even though the child be received into and taught in the school (*London School Board* v. *Wood*, 15 Q. B. D. 415; 54 L. J. M. C. 145; 54 L. T. 88).

A previous offence under this section may be proved in subsequent proceedings by the minute book containing an entry of the order imposing a penalty on the parent for such previous offence (*London School Board* v. *Harvey*, 4 Q. B. D. 451; 48 L. J. M. C. 130; 27 W. R. 783).

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Act, 1866, and when so sent shall be deemed to have been sent in pursuance of that Act and the Acts amending the same; and the parent, if liable under the said Acts to contribute to the maintenance and training of his child when sent to an industrial school, shall be liable so to contribute when his child is sent in pursuance of this section.

Duty of local authority as to taking proceedings under this Act or 29 & 30 Vict. c. 118.

XIII. Where the local authority are informed by any person of any child in their jurisdiction who is stated by that person to be liable to be ordered by a court under this Act to attend school, or to be sent under this Act, or the Industrial Schools Act, 1866, to an industrial school, it shall be the duty of the local authority to take proceedings under this Act or the Industrial Schools Act, 1866, accordingly, unless the local authority think that it is inexpedient to take such proceedings.

Provided that nothing in this section shall relieve the local authority from the responsibility of performing their duty under the other provisions of this Act.

Industrial School.

Licence to child sent to industrial school to live out while attending school.

XIV. Where a child is sent to a certified industrial school under this Act or the Industrial Schools Act, 1866, upon the complaint or representation of the local authority under this Act, the managers of such school may, if they think fit, at any time after the expiration of one month after the child is so sent give him a licence under section twenty-seven of the Industrial Schools Act, 1866, to live out of the school, but the licence shall be conditional upon the child attending as a day scholar, in such regular manner as is specified in the licence, some school willing to receive him and named in the licence, and being a certified efficient school.

Amendment as to provision of

XV. The consent of one of Her Majesty's principal Secretaries of State, and not of the Education Department, shall be

Sect. 13.

Note.

For the classes of children who may be sent to industrial schools under the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), see sect. 14 of that Act.

For contribution to expenses of a child sent to an industrial school upon complaint by a school attendance committee, see the Elementary Education Act, 1879 (42 & 43 Vict. c. 48), s. 4.

The provisions of this section do not preclude a private individual from taking proceedings to have a child removed to an industrial school (*Walker* v. *Laxton*, 70 L. T. 690).

Sect. 14.

Note.

See also the Reformatory and Industrial Schools Act, 1891 (54 & 55 Vict. c. 23), s. 1.

Sect. 15.

Note.

This is an amendment of sect. 28 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75).

Sect. 15.

industrial school by school board.

required for the establishing, building, and maintaining of a certified industrial or certified day industrial school by a school board, and to the spreading of the payment of the expense of such establishment and building over a number of years not exceeding fifty, and to the borrowing of money for that purpose; and for the purpose of such borrowing section ten of the Elementary Education Act, 1873, shall be held to apply to the loan in like manner as if one of Her Majesty's principal Secretaries of State were substituted therein for the Education Department, and such establishment and building shall be deemed to be a work for which a school board is authorized to borrow within the meaning of the first schedule to the Public Works Loans Act, 1875.

Day Industrial School.

Establishment, &c. of day industrial schools.

XVI. If a Secretary of State is satisfied that, owing to the circumstances of any class of population in any school district, a school in which industrial training, elementary education, and one or more meals a day, but not lodging, are provided for the children, is necessary or expedient for the proper training and control of the children of such class, he may, in like manner as under the Industrial Schools Act, 1866, certify any such school (in this Act referred to as a day industrial school) in the neighbourhood of the said population to be a certified day industrial school.

Any child authorized by the Industrial Schools Act, 1866, to be sent to a certified industrial school, may, if the court before whom the child is brought think it expedient, be sent to a certified day industrial school; any child sent to a certified day industrial school by an order of a court (other than an attendance order under this Act) may during the period specified in the order be there detained during such hours as may be authorized by the rules of the school approved by the said Secretary of State.

A certified day industrial school shall be deemed to be a certified efficient school within the meaning of this Act.

In the case of a certified day industrial school,—

(1) A prison authority within the meaning of the Industrial

Sect. 16.

Note.

For certifying industrial schools under the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), see sects. 7—13 of that Act.

As to powers of prison authorities and school boards with regard to industrial schools, see the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), s. 12; Elementary Education Act, 1870 (33 & 34 Vict. c. 75), ss. 27, 28; Reformatory and Industrial Schools Acts Amendment Act, 1872 (35 & 36 Vict. c. 21), ss. 7, 8, 9; Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 14; and Elementary Education (Industrial Schools) Act, 1879 (42 & 43 Vict. c. 48).

As to the payment of school fees by the guardians, see sect. 10, *supra*.

Sect. 16.

Schools Act, 1866, and a school board shall respectively have the same powers in relation to a certified day industrial school as they have in relation to a certified industrial school; and

(2) There may be contributed out of monies provided by Parliament towards the custody, industrial training, elementary education, and meals of children sent by an order of a court other than an attendance order under this Act to a certified day industrial school such sums not exceeding one shilling per head per week, and on such conditions as a Secretary of State from time to time recommends; and

(3) Where a court of summary jurisdiction orders otherwise than by an attendance order under this Act a child to be sent to a certified day industrial school, the court shall also order the parent of such child, if liable to maintain him, to contribute to his industrial training, elementary education, and meals in the school such sum not exceeding two shillings per week as is named in the order; it shall be the duty of the local authority to obtain and enforce the said order, and every sum paid under the order shall be paid over to the local authority in aid of their expenses under this Act; if a parent resident in any parish is unable to pay the sum required by the said order to be paid, he shall apply to the guardians having jurisdiction in the parish, who, if satisfied of such inability, shall give the parent sufficient relief to pay the said sum, or so much thereof as they consider him unable to pay, and the money so given shall be charged to the parish as provided by this Act in the case of money given for the payment of school fees; and

(4) The managers of a certified day industrial school may, upon the request of a local authority and of the parent of a child, and upon the undertaking of the parent to pay towards the industrial training, elementary education, and meals of such child such sum, not less than one shilling a week, as a Secretary of State from time to time fixes, receive such child into the school under an attendance order or without an order of a court; and there may be contributed out of monies provided by Parliament in respect of that child such sum, not exceeding sixpence a week and on such conditions as a Secretary of State from time to time recommends.

It shall be lawful for Her Majesty from time to time, by Order in Council, to apply to a certified day industrial school the provisions of the Industrial Schools Act, 1866, and the Acts amending the same, with such modifications as appear to Her Majesty to be necessary or proper for adapting such

provisions to a day industrial school, and bringing them into conformity with this Act; and such Order may provide that a child may be punished for an offence by being sent to a certified industrial in lieu of a certified reformatory school, or may otherwise mitigate any punishment imposed by the said Act.

It shall be lawful for Her Majesty from time to time, by Order in Council, to revoke and vary any Order in Council made under this section.

Every such Order shall be laid before both Houses of Parliament within one month after it is made if Parliament be then sitting, or if not, within one month after the beginning of the then next session of Parliament, and while in force shall have effect as if it were enacted in this Act.

A Secretary of State may from time to time make, and when made revoke and vary, the forms of orders for sending a child to a day industrial school, and the manner in which children are to be sent to such school.

If a Secretary of State is of opinion that, by reason of a change of circumstances or otherwise, a certified day industrial school ceases to be necessary or expedient for the proper training and control of the children of any class of population in the neighbourhood of that school, he may, after due notice, withdraw the certificate of the school, and thereupon such school shall cease to be a certified day industrial school.

Provided, that the reasons for withdrawing such certificate shall be laid before both Houses of Parliament within one month after notice of the withdrawal is given, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.

Conditions of contribution to day industrial schools.

XVII. The conditions of a Parliamentary contribution to a certified day industrial school, to be recommended by the Secretary of State, shall provide for the examination of the children according to the standards of proficiency for the time being in force for the purposes of a Parliamentary grant to public elementary schools; but may vary the amounts of the contributions to be made in respect of such standards respectively.

Any conditions recommended by a Secretary of State for the purposes of contributions to a day industrial school shall be laid before Parliament in the same manner as minutes of the Education Department relating to the annual Parliamentary grant.

Parliamentary Grant.

[Sect. 18. *Contribution for fees of children who obtain certificates:* Repealed by the Elementary Education Act, 1891 (54 & 55 Vict. c. 56).]

Sect. 19.

Amendment of 33 & 34 Vict. c. 75, s. 97, as to conditions of annual Parliamentary grant.

XIX. . . . The conditions required to be fulfilled by an elementary school in order to obtain the annual Parliamentary grant shall provide that—

* * * * *

(2) Where the population of the school district in which the school is situate, or the population within two miles measured according to the nearest road, from the school is less than three hundred, and there is no other public elementary school recognized by the Education Department as available for the children of that district, or that population (as the case may be), a special Parliamentary grant may be made annually to that school to the amount, if the said population exceeds two hundred, of ten pounds, and, if it does not exceed two hundred, of fifteen pounds; and

(3) The said special grant shall be in addition to the ordinary annual Parliamentary grant, and shall not be included in the calculation of that grant for the purpose of determining whether it does or not exceed the amount before in this section mentioned.

Conditions for obtaining Parliamentary grant.

XX. The conditions required to be fulfilled by schools in order to obtain annual Parliamentary grants shall provide that the income of the schools shall be applied only for the purpose of public elementary schools.

Bye-laws.

School attendance committee to have like powers

XXI. In a school district not within the jurisdiction of a school board, if it is a borough the school attendance committee [*may, if they think fit,*] and if it is a parish the school

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Sect. 19. Note.

The first part of this section, repealing part of sect. 97 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), is repealed by the S. L. R. Acts, 1883 and 1894; and the 1st sub-clause is repealed by the Voluntary Schools Act, 1897 (60 & 61 Vict. c. 5), s. 2, so far as it applies to day schools in England and Wales.

See as to further special grant, the Education Code (1890) Act, 1890 (53 & 54 Vict. c. 22), s. 2.

For the purposes of this section the fee grant payable to a school under the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), is by sect. 1 of that Act to be reckoned as school pence to be met by the grant payable by the Education Department.

Sect. 21. Note.

The words in italics are repealed by the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), s. 6. See also sect. 2 of that Act as to the *duty* of the local authority to make bye-laws, and sect. 3 as to the power of the school attendance committee of a union to make bye-laws without the requisition of a parish.

When a parish which has no separate school board is formed into

attendance committee for the union comprising such parish [*on the requisition of the parish, but not otherwise*], shall make bye-laws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, as if such school attendance committee were a school board.

Sect. 21. with school boards of enforcing by bye-law attendance of children.

[Sect. 22. *Provision as to requisition of parish:* Repealed by the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), s. 6.]

XXIII. For the purposes of this Act section seventy-four of the Elementary Education Act, 1870, and all enactments of that or any other Act referring to bye-laws under that section, shall be construed as if "school board" included the authority authorized by this Act to make bye-laws:

Provision as to bye-laws under sect. 74 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), as extended by this Act.

Provided that nothing in any bye-law shall authorize the authority making the same in pursuance of this Act to remit or pay any fees.

It shall be the duty of every local authority to enforce the bye-laws made by that authority in pursuance of section seventy-four of the Elementary Education Act, 1870.

Administrative Provisions.

XXIV. The certificates of proficiency of a child in reading, writing, and elementary arithmetic, and of the previous due attendance of a child at a certified efficient school for the purposes of this Act, shall be certificates of proficiency and previous due attendance ascertained according to the standards set forth in the first schedule to this Act, and such certificate shall be granted to the child entitled to the same free of cost or charge to such child, or to the parent of such child.

Supplemental provisions as to certificates of proficiency and previous attendance at school.

The Education Department may from time to time by order make, and when made revoke and vary, regulations with respect to certificates of age for the purposes of this Act and the persons by whom and the form in which certificates of the said proficiency and due attendance are to be granted, and with respect to other matters relating thereto, and with respect to the preservation of registers and other records of such proficiency and attendance, and such regulations shall be observed by the local authority and the managers of certified efficient schools.

All regulations made by the Education Department under

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a contributory district to a school board district under sect. 49 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), it is the duty of the school attendance committee of the district which includes the parish, and not of the school board of the district to which it is contributory, to make bye-laws (*Reg.* v. *Cumberland JJ.*, or *Reg.* v. *Vane*, 51 L. J. M. C. 114; 47 L. T. 22).

Sect. 21. Note.

For the authority authorized by this Act to make bye-laws, see sect. 21, *supra*.

Sect. 23. Note.

Sect. 24.

this section shall be laid before Parliament in the same manner as minutes of the Education Department relating to the annual Parliamentary grant.

Certificates of birth for purposes of Act.

XXV. Where the age of any child is required to be ascertained or proved for the purposes of this Act, or for any purpose connected with the elementary education or employment in labour of such child, any person on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Local Government Board, and on payment of such fee, not exceeding one shilling, as the Local Government Board from time to time fix, shall be entitled to obtain a certified copy under the hand of the registrar or superintendent registrar of the entry in the register under the Births and Deaths Registration Acts, 1836 to 1874, of the birth of the child named in the requisition.

Returns of registrars of births and deaths to school boards.

XXVI. Every registrar of births and deaths, when and as required by a local authority, shall transmit, by post or otherwise, a return of such of the particulars registered by him concerning deaths and births of children as may be specified in the requisition of the local authority.

The local authority may supply a form, approved by the Local Government Board, for the purpose of the return, and in that case the return shall be made in the form so supplied.

The local authority may pay, as part of their expenses under this Act, to the registrar making such return such fee as may be agreed upon between them and the registrar, not exceeding twopence for every birth and death entered in such return.

Provision in case of failure of local authority to perform their duty under this Act.

XXVII. If the Education Department are satisfied, after such inquiry and such notice to any local authority as they think expedient, that such authority have failed to fulfil their duty under this Act, the Education Department (without prejudice to any other remedy)—

(*a.*) If the authority are a school board, may proceed as if such board were a school board in default within the meaning of the Elementary Education Act, 1870; and

(*b.*) If the authority are not a school board, may by order appoint any persons for a specified period not exceeding two years to perform the duty of the defaulting school

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Sect. 25. Note.

This section is now practically superseded by the Factory and Workshop Act, 1891 (54 & 55 Vict. c. 75), s. 20.

Sect. 27. Note.

The Education Department may make bye-laws upon default of the "local authority." (Elementary Education Act, 1880 (43 & 44 Vict. c. 23), s. 2.)

attendance committee under this Act, and from time to time change such persons. Sect. 27.

During the said specified period the persons so appointed shall perform the duty of the defaulting school attendance committee under this Act, to the exclusion of that committee, and shall in the performance and for the purposes of such duty be invested with all the powers of the school attendance committee, but shall not be subject to any control on the part of the council or guardians who appointed the defaulting committee: but after the expiration of such period a school attendance committee shall forthwith be appointed by the council or guardians as the case may require, and shall resume the duty of the local authority under this Act, subject nevertheless to any further proceeding under this section in the case of a new default.

All expenses incurred by persons appointed under this section by the Education Department to act in lieu of a defaulting school attendance committee, including such remuneration, if any, as the Education Department may assign to such persons, shall, to the amount certified by the Education Department to be due, be a debt to Her Majesty from the council or guardians by whom the defaulting committee were appointed, and may be recovered accordingly; and the certificate of the Education Department shall be conclusive evidence that the sum named in the certificate is due under this section.

The Education Department shall annually report to Parliament the cases in which any proceedings have been taken by them in pursuance of this section.

Officers of local authority.

XXVIII. Every local authority, but subject in the case of a school attendance committee to the approval herein-after mentioned, shall direct one or more of their officers, or the officers of the council or guardians by whom the committee are appointed, to act in the execution of this Act, and of any bye-laws in force within the jurisdiction of such authority, and may, if they think fit, pay him or them for so doing, and may, if need be, appoint and pay officers for the purpose.

Power of officer of local authority to enter place of employment.

XXIX. If it appear to any justice of the peace, on the complaint of an officer of the local authority acting under this Act, that there is reasonable cause to believe that a child is employed in contravention of this Act in any place, whether

Sect. 28.

Note.

A school attendance committee appointed by guardians will require the consent of the Local Government Board for the employment of an officer as well as the consent of the guardians. (See sect. 31, *post.*)

The appointment, &c., of school attendance officers is regulated by an order of the Local Government Board dated April 14th, 1877.

Sect. 29.

a building or not, such justice may by order under his hand empower an officer of the local authority to enter such place at any reasonable time within forty-eight hours from the date of the order, and examine such place and any person found therein touching the employment of any child therein.

Any person refusing admission to an officer authorized by an order under this section, or obstructing him in the discharge of his duty, shall for each offence be liable on summary conviction to a penalty not exceeding twenty pounds.

Provision as to powers and expenses of school board.

XXX. The powers and expenses of a school board under this Act shall be deemed to be powers and expenses of that board under the Elementary Education Act, 1870, and the provisions of that Act and any Act amending the same shall apply thereto accordingly.

Expenses of local authority other than school board.

XXXI. A school attendance committee under this Act shall not incur any expense, or appoint, employ, or pay any officer without the consent of the council or guardians by whom the committee were appointed, and where they are appointed by guardians, also of the Local Government Board, but with such consent may employ and pay any officer of such council or guardians. The expenses (if any) of a school attendance committee under this Act shall be paid,—

(1) Where the committee is appointed by a council, out of the borough fund or borough rate; and,

(2) Where the committee is appointed by a board of guardians, out of a fund to be raised out of the poor rate of the parishes in which the committee act for the purposes of this Act, according to the rateable value of each parish:

Sect. 30.

Note.

See sects. 53—56 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), as to the expenses of a school board under that Act.

Sect. 31.

Note.

For appointment of school attendance committee by guardians, see sects. 7 and 33 of this Act. By the Local Government order dated April 14th, 1877, arts. 14, 15, the committee are to certify to the guardians the expenses legally incurred by the committee, and the guardians then make the payments.

The powers of guardians for assessing contributions to the common fund are regulated by the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 30; the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 12; the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 15; and the General Order of February 26th, 1866; and for enforcing payment of contribution orders, by the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 63; the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 9; and the Poor Law (Payment of Debts) Act, 1859 (22 & 23 Vict. c. 49), s. 6.

Sect. 31.

For the purpose of obtaining payment of such expenses, the board of guardians shall have the same powers as they have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor.

Provisions as to school attendance committee and appointment of local committee.

XXXII. Subject to the provisions of this Act the council or guardians may from time to time add to or diminish the number of members of a school attendance committee appointed by them.

A school attendance committee appointed by guardians shall act for every parish in the union which is not for the time being under any other local authority within the meaning of this Act.

A school attendance committee may, if they think fit, appoint different local committees for different parishes or other areas in their district for the purpose of giving the school attendance committee such aid and information in the execution of this Act as may be required by the committee appointing them, but any such local committee shall not have power to make any bye-laws or take any proceeding before a court of summary jurisdiction under this Act.

A local committee may consist of not less than three persons, being, as the school attendance committee appointing them think fit, either wholly members of the council, guardians, or authority by whom that school attendance committee were appointed, or partly such members and partly other persons.

The provisions contained in the second schedule to this Act shall apply to every school attendance committee and local committee appointed under this Act.

Power to authorize appointment of school attendance committee by urban sanitary authority.

XXXIII. On the application of the urban sanitary authority of an urban sanitary district which is not and does not comprise a borough, and which is co-extensive with any parish or parishes not within the jurisdiction of a school board, containing according to the last published census for the time being a population of not less than five thousand, the Education Department may by order authorize the sanitary authority of that district to

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Sect. 32. Note.

It is provided by sect. 7, *ante*, that the school attendance committee shall consist of not less than six nor more than twelve members; the increase or decrease of the number of members must therefore be within those limits.

Sect. 33. Note.

Contribution orders by guardians may be enforced against overseers in default under the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1, as amended by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 9. Penalties may also be recovered against overseers neglecting to comply with contribution orders of the guardians under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 63.

Sect. 33.

appoint, and thereupon such authority may appoint, a school attendance committee as if they were the council of a borough, and that committee, to the exclusion of the school attendance committee appointed by the guardians, shall enforce the provisions of this Act in the sanitary district, and be in that district the local authority for the purposes of this Act, and all the provisions of this Act shall apply accordingly as if the sanitary authority were the council of a borough.

Provided, that the expenses (if any) of a school attendance committee appointed by an urban sanitary authority shall be paid out of a fund to be raised out of the poor rate of the parish or parishes comprised in the district of such authority, according to the rateable value of each parish, and the urban sanitary authority shall, for the purpose of obtaining payment of such expenses, have the same power as a board of guardians have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor, and the accounts of such expenses shall be audited as the accounts of other expenses of the sanitary authority.

Any bye-laws in force in an urban sanitary district, or any part thereof, before the appointment of a school attendance committee by the sanitary authority of such district shall continue in force, subject nevertheless to be revoked or altered by the school attendance committee of the sanitary authority in pursuance of section seventy-four of "The Elementary Education Act, 1870," as amended by this Act.

Where an urban sanitary district is not and does not comprise a borough, and is not wholly within the jurisdiction of a school board, and is not within the foregoing provisions of this section, the urban sanitary authority of that district may from time to time appoint such number as the Education Department allow, not exceeding three, of their own members to be members of the school attendance committee for the union in which the district or the part thereof not within the jurisdiction of a school board is situate, and such members, so long as they are members of the sanitary authority, and their appointment is not revoked by that authority, shall be members of the school attendance committee, and have the same powers and authorities as if they had been appointed by the guardians.

Where a school board is appointed after the commencement of this Act for any parish which forms or comprises the whole or part of an urban sanitary district in which the school attendance committee is appointed by the urban sanitary authority, such school attendance committee shall, at the expiration of two months after the election of the school board, cease to act for the urban sanitary district, and the school attendance committee appointed by the guardians shall be the local authority for so much of the urban sanitary district as is not under the school board.

All bye-laws in force at the expiration of the said two months

shall continue in force, subject to being revoked or altered by the local authority, in pursuance of section seventy-four of "The Elementary Education Act, 1870," as amended by this Act. Sect. 33.

Clerk of school attendance committee of guardians, and application of Acts to guardians and school attendance committee.

XXXIV. In a union the clerk of the guardians shall be the clerk of the school attendance committee for the purposes of this Act.

All enactments relating to guardians and their officers and expenses, and to relief given by guardians, shall, subject to the express provisions of this Act, apply as if the guardians, including the school attendance committee appointed by them, and their officers acting under this Act, and expenses incurred, and money paid for school fees and relief given under this Act, were respectively acting, incurred, and paid and given as relief, under the Acts relating to the relief of the poor, and the Local Government Board may make rules, orders, and regulations accordingly.

Any expenses incurred by officers of guardians in carryin into effect section twenty of "The Elementary Education Act, 1873," when paid by such guardians, may be charged by them to the parish in respect of which such expenses are incurred.

Charge to parish of money for school fees.

XXXV. Money given under this Act for the payment of school fees for any child of a parent who is not a pauper and is resident in any parish shall be charged by the guardians having jurisdiction in such parish to that parish with other parochial charges.

Effect of subsequent appointment of school board.

XXXVI. Where a school board is appointed after the commencement of this Act for any school district the authority acting at the time of such appointment as the local authority under this Act shall continue so to act until the expiration of two months after the election of such board, and shall then cease so to act for such district; nevertheless, all bye-laws previously made by the local authority shall continue in force, subject to being revoked or altered in respect of that district by the school board in pursuance of section seventy-four of the Elementary Education Act, 1870.

Sect. 34.

Note.

Various orders have been issued by the Local Government Board under this section :—

The duties and remuneration of the clerk of the guardians as the clerk of the school attendance committee are regulated by the Gen. Order of April 14th, 1877.

The payment of school fees of non-pauper children is regulated by Gen. Orders dated March 22nd, 1877; June 4th, 1877; September 5th, 1877; October 7th, 1877; and January 9th, 1878; and the proceedings of school attendance committees and their officers are regulated by Gen. Orders dated April 14th, 1877; June 4th, 1877; and October 7th, 1879.

Sect. 37.

Legal Proceedings.

Application of 36 & 37 Vict. c. 86, ss. 23—25, to penalties, and punishment for fraudulently obtaining payment of fees.

XXXVII. Sections twenty-three, twenty-four, and twenty-five of the Elementary Education Act, 1873 (which provisions relate to legal proceedings, and the forgery of certificates), shall so far as applicable apply in the case of offences and penalties under this Act, and proceedings for such offences and penalties and of certificates for the purposes of this Act, in like manner as if those sections were enacted in this Act and in terms made applicable thereto.

And every person who shall fraudulently obtain or enable or procure any other person to obtain from any school board or local authority payment, or remission of payment, or an order for payment, or remission of payment of any school fees, shall be liable on summary conviction to imprisonment for a period not exceeding fourteen days.

An order which a court of summary jurisdiction have authority to make in pursuance of this Act may be made in manner provided by the Summary Jurisdiction Acts.

No prosecutions except with the authority of two members of a school board or local authority.

XXXVIII. No legal proceedings for non-attendance or irregular attendance at school shall be commenced in a court of summary jurisdiction, by any person appointed to carry out the compulsory bye-laws of a school board or local authority, except by the direction of not less than two members of a school board or school attendance committee.

Exemption of employer on proof of guilt of some other person.

XXXIX. Where the offence of taking a child into employment in contravention of this Act is in fact committed by an agent or workman of the employer, such agent or workman shall be liable to a penalty as if he were the employer.

Where a child is taken into employment in contravention of this Act on the production by or with the privity of the parent of a false or forged certificate, or on the false representation of his parent that the child is of an age at which such employment is not in contravention of this Act, that parent shall be liable to a penalty not exceeding forty shillings.

Where an employer charged with taking a child into his employment in contravention of this Act proves that he has used due diligence to enforce the observance of this Act, and either that some agent or workman of his employed the child without his knowledge or consent, or that the child was employed either on the production of a forged or false certificate and under the belief in good faith in the genuineness and

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Sect. 39.

Note.

The employment of children is regulated by sects. 5, 9 of this Act; by sect. 4 of the Elementary Education Act, 1880 (43 & 44 Vict. c. 23); and sect. 2 of the Elementary Education (School Attendance) Act, 1893 (56 & 57 Vict. c. 51).

Sect. 39.

truth of such certificate, or on the representation by his parent that the child was of an age at which his employment would not be in contravention of this Act and under the belief in good faith in such representation, the employer shall be exempt from any penalty.

Where an employer satisfies the local authority, inspector, or other person about to institute a prosecution that he is exempt under this section by reason of some agent, workman, or parent being guilty, and gives all facilities in his power for proceeding against and convicting such agent, workman, or parent, such authority, inspector, or person shall institute proceedings against such agent, workman, or parent, and not against the employer.

Miscellaneous.

Adaptation of 36 & 37 Vict. c. 86, s. 3, respecting pauper children to this Act.

XL. . . . Where relief out of the workhouse is given by the guardians or their order, by way of weekly or other continuing allowance to the parent of any child above the age of five years who has not reached the standard in reading, writing, and arithmetic, prescribed by standard three of the code of one thousand eight hundred and seventy-six, or who for the time being either is prohibited by this Act from being taken into full time employment, or is required by any bye-law under section seventy-four of the Elementary Education Act, 1870, as amended by this Act, to attend school, or to any such child, it shall be a condition for the continuance of such relief that elementary education in reading, writing, and arithmetic shall be provided for such child, and the guardians shall give such further relief (if any) as may be necessary for that purpose.

Any such relief to a parent as above mentioned shall not be granted on condition of the child attending any public elementary school other than such as may be selected by the parent, nor refused because the child attends or does not attend any particular public elementary school.

The guardians shall not have power under this section to give any relief to a parent in order to enable such parent to pay more than the ordinary fee payable at the school which he

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Sect. 40.

Note.

The preamble to this section, stating it to be in substitution for sect. 3 of the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), is repealed by the S. L. R. Act, 1883.

This section is amended by sect. 5 of the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), and though not repealed by the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), is now ineffectual where the child attends a free school.

Under this section payment of fees may be made direct by the guardians to the school managers, instead of to the parents of the child (*In re Darlington Union*, 32 L. T. (N. S.) 320).

Sect. 40.

selects, or more than the fee which under this Act they can enable a parent to pay in any other case.

All relief given by guardians under this section shall be deemed to be relief within the meaning of the Acts relating to the relief of the poor, and shall be paid out of their common fund, and where given by the guardians of any union in the metropolis as defined by the Metropolitan Poor Act, 1867, shall be deemed to be expenses payable from the metropolitan common poor fund within the meaning of section sixty-nine of that Act, and shall be repaid to such guardians accordingly.

Dissolution of school board under certain circumstances.

XLI. Where application for the dissolution of a school board is made to the Education Department by the like persons and in the like manner as an application for the formation of a school board, under section twelve of the Elementary Education Act, 1870, nevertheless by a majority of not less than two-thirds of those who shall vote upon the occasion, and the Education Department are satisfied that no school and no site for a school is in the possession or under the control of the school board, and that there is a sufficient amount of public school accommodation for the district of the school board, and no requisition has been sent by the Education Department to such school board under section ten of the Elementary Education Act, 1870, requiring them to supply public school accommodation, it shall be the duty of the Education Department to take the circumstances of the case into consideration, and if they shall be of opinion that the maintenance of a school board is not required for the purposes of education in the district, it shall be lawful for the Education Department, after such notice as they think sufficient, to order the dissolution of the school board : Provided always, that no application shall be made for the dissolution of a school board except within six months before the expiration of the period for which the school board has been elected, and no order for the dissolution of such school board shall take effect until after the expiration of such period, except that after the order is made an election of members of that board shall not be held.

The Education Department by any such order shall make provision for the disposal of all money, furniture, books, documents, and property belonging to the school board, and for the discharge out of the local rate of all the liabilities of the board, and such other provisions as appear to the department necessary

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Sect. 41.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (2), in a rural parish the power of making an application or passing a resolution, given by sect. 12 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), and by this section to the electing body mentioned in s. 12 of the Act, 1870, is transferred to the parish meeting.

or proper for carrying into effect the dissolution of the board. Sect. 41.

The Education Department shall publish the order in manner directed by the Elementary Education Act, 1873, with respect to the publication of notices, and after the date of such publication, or any later date mentioned in the order, the order shall have effect as if it were enacted by Parliament, without prejudice nevertheless to the subsequent formation of a school board in the same school district; all bye-laws previously made by the school board shall continue in force, subject nevertheless to be revoked or altered by the local authority under this Act: Provided, that if after the dissolution of a school board in any school district the Education Department are of opinion that there is not a sufficient amount of public school accommodation in such school district, they may after due notice cause a school board to be formed for such school district, and send a requisition to such school board in the same manner in all respects as if they had published a final notice under the Elementary Education Act, 1870.

The Education Department shall in each case where it shall assent to the dissolution of a school board lay before both Houses of Parliament a statement of its reasons for giving such assent.

Provision of offices by school board with consent of Education Department.

XLII. Where a school board satisfy the Education Department that, having regard to the large population of the district of such board, it is necessary or proper that the board should provide an office, the Education Department may authorize the board to provide an office, and the board shall for that purpose have the same power as they have under the Elementary Education Acts, 1870 to 1873, for the purpose of providing sufficient school accommodation for their district, including the power of borrowing money under section ten of the Elementary Education Act, 1873, and the provision of such office shall be deemed to be a work for which a school board is authorized to borrow within the meaning of the Public Works Loans Act, 1875.

Local authority to send returns.

XLIII. The local authority under this Act (although not a school board) shall send to the Education Department such returns and information respecting their proceedings under this Act, and respecting matters on which school boards can be required under "The Elementary Education Act, 1870," to make returns, as the Education Department from time to time require.

Amendment of 33 & 34 Vict. c. 75, as to Sect. 43. Note.

XLIV. . . . The Elementary Education Act, 1870, shall be construed as if there were substituted for the rule numbered

School boards are required to make returns by sect. 95 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75).

Sect. 44.

to elections to fill casual vacancies in school board.

fifteen in the first part of the second schedule to that Act, which is repealed by this Act, the rule in the third schedule to this Act; and any reference to the said second schedule or the first part thereof shall be construed to refer to the same with the rule so substituted. . . .

Application of 33 & 34 Vict. c. 75, ss. 83, 84, to orders and documents of Education Department.

XLV. The provisions of the Elementary Education Act, 1870, with respect to orders and documents of the Education Department, shall apply to all orders and documents of the Education Department under this Act.

Effect of schedules.

XLVI. The schedules to this Act shall have effect as if they were enacted in the body of this Act.

Definition of employment in case of parent.

XLVII. A parent of a child who employs such child in any labour exercised by way of trade or for the purposes of gain, shall be deemed for the purposes of this Act to take such child into his employment.

General definitions.

XLVIII. A child in this Act means a child between the ages of five and fourteen years.

Terms in this Act shall, so far as is consistent with the tenor thereof, have the same meaning as in the Elementary Education Acts, 1870 and 1873.

The term "certified efficient school" in this Act means a public elementary school, and any workhouse school certified to be efficient by the Local Government Board, and any public or state-aided elementary school in Scotland, and any national school in Ireland, and also any elementary school which is not conducted for private profit, and is open at all reasonable times to the inspection of Her Majesty's inspectors, and requires the like attendance from its scholars as is required in a public elementary school, and keeps such registers of those attendances as may be for the time being required by the Education Department, and is certified by the Education Department to be an efficient school.

The term "Factory Acts" in this Act, where the Factory Act of any particular year is not referred to, means the Factory

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Sect. 47.

Note.

The employment of children is prohibited by sects. 5, 6, 9 of this Act, sect. 4 of the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), and sect. 2 of the Elementary Education (School Attendance) Act, 1893 (56 & 57 Vict. c. 51).

A man, in order to enable his wife to go out and earn money, kept his daughter, a child of the age of thirteen, who was not exempted from school attendance, at home to do the housework. *Held* that he did not thereby employ the child for "the purposes of gain" under this section, so as to render himself liable to the penalty imposed by sect. 6 (*Mather* v. *Lawrence*, [1899] 1 Q. B. 1000).

Acts, 1833 to 1874, as amended by this Act, and includes the Workshop Acts, 1867 to 1871, as amended by this Act, and any Acts for the time being in force regulating factories and workshops. Sect. 48.

Provision as to part of a parish.

XLIX. A part of a parish which by or in pursuance of the Elementary Education Acts, 1870 and 1873, is constituted a separate school district shall be deemed to be a separate school district, and so far as necessary a separate parish by itself for the purposes of this Act, and the provisions of those Acts respecting such part of a parish shall apply, and for the purposes of those Acts and this Act the overseers of the entire parish shall be deemed to be the overseers of such part of a parish, and a rate in the nature of a poor rate may be levied therein by such overseers either as a separate rate or as an addition to the poor rate, and shall be deemed to be the local rate; and the guardians shall for the purposes of this Act have the like power of obtaining payment of a contribution from the said part of a parish as they have of obtaining a contribution from the whole parish.

Construction of this Act with other enactments.

L. Where any act, neglect, or default is punishable under this Act and also under any other enactment, or any bye-law made by a school board or other local authority for the time being in force, proceedings may be instituted in respect of such act, neglect, or default under this Act or such other enactment or bye-law, in the discretion of the authority or person instituting the proceedings, so that proceedings under one enactment or bye-law only be instituted in respect of the same act, neglect, or default; and any bye-law made either before or after the commencement of this Act, by any school board or other local authority under section seventy-four of the Elementary Education Act, 1870, if otherwise valid, shall not be rendered invalid by reason that it is more stringent than the provisions of this Act; and nothing in this Act shall prejudice the effect of or derogate from any provision relating to the committal of children to industrial schools or the employment of children contained in any previous Act of Parliament which may be more stringent in its provisions than this Act.

Sect. 49.

Note.

As to the cases where a part or parts of a parish may be constituted a separate school district, see sect. 77 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), and sect. 12 of the Elementary Education Act, 1873 (36 & 37 Vict. c. 86).

A general order of March 20th, 1879, prescribes the keeping and audit of books and accounts in respect of a rate made in part of a parish for the purposes of the Education Acts.

The remuneration for collecting a rate in part of a parish is provided for by sect. 17 of the Poor Law Act, 1879 (42 & 43 Vict. c. 54).

Sect. 51.

[Sect. 51. *Temporary modification as to application of Act, and saving for children in employment at passing of Act:* Repealed by the Elementary Education Act, 1880 (43 & 44 Vict. c. 23).]

[Sect. 52. *Repeal of Acts:* Repealed by the Elementary Education Act, 1880 (43 & 44 Vict. c. 23).]

PART II.

Application of the Act to Scotland.

LIII. In the application of this Act to Scotland the following provision shall have effect:

The provisions of this Act with respect to the conditions to be fulfilled by schools in order to obtain an annual Parliamentary grant shall apply to Scotland.

SCHEDULES.

FIRST SCHEDULE.

STANDARDS OF PROFICIENCY IN READING, WRITING, AND ELEMENTARY ARITHMETIC AND PREVIOUS DUE ATTENDANCE AT SCHOOL.

For the purpose of Employment.

(1) The standard of proficiency in reading, writing, and elementary arithmetic for the purpose of a certificate under this Act enabling a child to be employed shall be—

(*a.*) The standard of reading, writing, and elementary arithmetic fixed by standard four of the Code of 1876, or any higher standard.

(2) The standard of previous due attendance at a certified efficient school for the purpose of a certificate under this Act enabling a child to be employed shall be two hundred and fifty attendances after five years of age in not more than two schools during each year for five years, whether consecutive or not:

[Clauses 3, 6 are repealed by the Elementary Education Act, 1880 (43 & 44 Vict. c. 23), and clauses 4, 5 by the Elementary Education Act, 1891 (54 & 55 Vict. c. 56).]

(7) The Education Department may from time to time by order make, and when made revoke and vary, such regulations and conditions in relation to the payment of fees under this Act by that department as they may think expedient.

(8) The order shall provide that not more than ten per cent. of the children presented for examination in a public elementary school shall obtain in the same year certificates entitling them to the payment of fees, and that if the children qualified to obtain such certificates exceed the said percentage, those children who have attended the greatest number of times shall have the preference.

(9) The order may make the continuance of the payment

dependent upon the fulfilment of conditions, and shall provide that the continuance of the payment shall be conditional upon the child attending the school for not less than three hundred and fifty attendances in each year, and obtaining at the end of each year a certificate of proficiency in reading, writing, and elementary arithmetic according to a standard higher than the standard according to which it obtained the previous certificate.

(10) The order shall further provide that the school, by previous due attendance at which the child was qualified for obtaining the payment of fees, and the school, the fees at which are paid by the Education Department, shall be a school or department of a school, at which the ordinary payment in respect of the instruction of each scholar does not exceed sixpence a week.

Miscellaneous.

(11) Attendance for the purpose of this schedule means an attendance as defined by the Code of 1876, and where the attendance is at a certified day industrial school includes such attendance as may be from time to time directed for the purpose by a Secretary of State, and where the attendance is at a workhouse school includes such attendance as may be from time to time directed for the purpose by the Local Government Board.

(12) The Code of 1876 in this schedule means the Code of the Minutes of the Education Department made in the year one thousand eight hundred and seventy-six with respect to the Parliamentary grant to public elementary schools in England, and in the case of a school in Scotland means the Code of the Minutes of the Scotch Education Department made in the year one thousand eight hundred and seventy-six with respect to the Parliamentary grant to elementary schools.

SECOND SCHEDULE.

Rules as to a Local Committee.

(1) Subject to the provisions of this Act, the school attendance committee may from time to time add to or diminish the number of members, or change the members of any local committee appointed by them, or may dissolve any such committee.

(2) A local committee shall, unless the school attendance committee appointing them otherwise direct, continue in office until the first meeting of that committee after the next annual appointment thereof, and thereafter until a new local committee is appointed.

Rules as to School Attendance Committee and Local Committee.

(3) Subject to any regulations made in the case of a school attendance committee by the council or guardians appointing

Schedules.

it and in the case of a local committee by the school attendance committee appointing it, the provisions of the third schedule of "The Elementary Education Act, 1870," with reference to proceedings of managers appointed by a school board, shall apply to the proceedings of a school attendance committee and a local committee under this Act, as if the body appointing the committee were a school board.

[The meetings of school attendance committees appointed by guardians are now regulated by general order of April 14th, 1877.]

(4) Any casual vacancy in a school attendance committee or local committee may be filled up by the body who appointed such committee.

(5) A school attendance committee shall continue in office until the first meeting of the council or guardians appointing it after the next annual election of councillors and guardians and thereafter until the new committee is appointed.

(6) A committee appointed by guardians shall be appointed at the first meeting after the annual election of guardians, or some other meeting fixed with the approval of the Local Government Board for the purpose.

THIRD SCHEDULE.

Rules as to Election of School Board.

If any casual vacancy in the office of a member of a school board occurs by death, resignation, disqualification, or otherwise, such vacancy may be filled by the remaining members of the school board, if a quorum, at a special meeting of the board called for the purpose.

[Schedule IV. *Acts repealed:* Repealed by the S. L. R. Act, 1883.]

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